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**REPORT OF
THE REFORMS COMMITTEE
1938—1947 F.**

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RESOLUTION.

His Exalted Highness' Government is pleased to release for public information the Report of the Special Committee appointed under the Chairmanship of Dewan Bahadur Aravamudu Iyengar.

The Members of the Committee were Mr. G. M. Qureishi, H.C.S., Prof. Qadir Husain, Mr. Akbar Ali Khan and Mr. Kasinath Rao Vaidya, and the Secretary was Mr. S. Yousuf Ali, H.C.S. The Committee had 80 sittings and spent 235½ hours in discussion of the various matters coming within its purview. In the course of its deliberations it was able to examine the several representations received from different associations and individuals for which an extended period of time was specially allowed.

As was remarked by the President of the Executive Council in his speech on the 22nd September, 1937, and also emphasised in the letter of appointment addressed to the Chairman, the terms of reference of the Committee were kept deliberately wide so that it may be unhampered in a comprehensive study of the problem entrusted to it for enquiry. Government is satisfied to note that this width of scope has been fully availed of as the Committee's report does not confine itself only to the question of reform of the Legislative Council but also deals with other spheres where the main interests in the State may usefully be brought into more effective association with the Government and the needs and desires of the people be more fully ascertainable.

His Exalted Highness' Government desires to express its appreciation of the work of the Committee as a whole and of the public spirit shown by all its members individually in having bestowed their fullest attention to the work of the Committee and not claiming, despite the fact that each of them had either officially or professionally sufficient work of his own, any remuneration for the heavy burden of this additional duty. That the report itself has been so ably drafted reflects not a little credit on the Secretary while Government's thanks are also due

to the staff for the unstinting assistance given by them to the Secretary.

Government's decisions in regard to the several matters raised in the Committee's report are being separately communicated.

Volumes II and III of the Appendices, dealing with the Proceedings of the Iyengar Committee and the representations received from different individuals or organisations respectively, are not being published as the Report itself is the outcome of the one and a Summary of the other is given at the end of the Report.

By Order
of
HIS EXCELLENCY THE PRESIDENT,
(Sd.) ALI YAVAR JUNG,
Secretary, Constitutional Affairs.

17th July, 1939.

CONFIDENTIAL.

REFORMS COMMITTEE,
H.E.H. THE NIZAM'S GOVERNMENT,
Hyderabad-Deccan.

D.O. No. 447.

*Dated 25th Mehir 1347 F.
31st August, 1938.*

MY DEAR NAWAB,

With reference to your D.O. letter No. 1524 of yesterday's date, I have the pleasure of submitting the Report of the Reforms Committee appointed by His Exalted Highness under the Chairmanship of Dewan Bahadur Aravamudu Iyengar, together

Appendix No. I. Statistics, pages 107.

Appendix No. II. Proceedings of the Committee, pages 293.

Appendix No. III. Representations received from the public, preceded by statements containing a summary of the Representations so received, pages 495.

with the marginally-noted appendices. Regret as I do the unavoidable absence of the Chairman who ought to have had the pleasure of addressing you on this occasion, I feel bound to carry out his telegraphic instructions "to submit the report in time." I can hardly be so presumptuous as to say anything in regard to the work done by the Committee whose "indefatigable labours" have already been referred to by H.E. the President in his recent speech to the Legislative Council, but I am afraid I shall be lacking in the discharge of a duty if I fail to submit to the kind notice of Government the untiring energy and devotion with which the members of my staff have co-operated with me during my tenure of office as Secretary to the Committee.

I am,

Yours sincerely,
S. YOUSUF ALI.

NAWAB ALI YAVAR JUNG BAHADUR,
Secretary to Government,
Constitutional Affairs,
Hyderabad.

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REPORT OF THE REFORMS COMMITTEE

List of Members

Chairman

DEWAN BAHADUR S. ARAVAMUDU AIYANGAR, M.B.E.,
B.A., B.L.

Members

MR. GHULAM MAHMOOD QUREISHI, H.C.S.

PROF. QADIR HUSAIN KHAN, M.A., BAR.-AT-LAW.

MR. KASHINATH RAO VAIDYA, M.A., LL.B.

MR. MIR AKBAR ALI KHAN, B.A., LL.B. (Hons.) (Lon.),
BAR.-AT-LAW.

Secretary.

MR. S. YOUSUF ALI.

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*Speech to the Legislative Council by the President
H.E.H. the Nizam's Executive Council*

GENTLEMEN OF THE LEGISLATIVE COUNCIL:

This is the first occasion when I have the honour to address you as your President and, following as I do a great servant of the State in the person of Maharaja Sir Kishen Pershad who for so many years worthily upheld the traditions of the great office which I have the honour now to hold, it is not unnatural that I should feel conscious of the great responsibility which has now been placed on my shoulders. I hope, however, that in so far as it relates to you, I shall through your co-operation find the strength to fulfil it worthily. I hope also that there will be many future occasions on which I shall be able to participate in your deliberations.

I consider your task, namely, legislation, to be a most important one. Good laws are the foundations of good Government and, in so far as it falls to your share of business as an organ of the constitution of the State to examine or frame legislation, I am sure that you will always, in the light of your knowledge of the different needs of the people of the State, bear in mind the principles which go to the making of stable, equitable and progressive laws. Absence of laws from any particular sphere of life of an organised society is a great defect which needs constant rectification, particularly as it lays on the executive an excessive burden of discretion and responsibility. The increasing complexities of modern life and the problems that they create cause a degree of strain on administrators and legislators unknown to previous generations and the task of the law-maker, just as that of the administrator, is becoming day by day more difficult and complex. A system of organised administration, based on an identity of interests between the Ruler and the ruled, has given to the State a variety of legislation derived from the laws of its different communities, from its own calculation of the needs of its people and from other laws, in force in British India, which have with judicious care been adapted to the requirements and

circumstances of the State. Progress in different directions, however, constantly creates fresh fields for legislation and I am confident that in covering those fields, while you will not fail to take advantage of the experience of other countries, you will at the same time not allow the sense of blind imitation to mar your own insight into the particular requirements of our people to whom such legislation will be applied.

Another and an equally important task is yours, namely, to assist the Government in adapting existing legislation to the needs of an ever-growing and progressive society such as ours. Change is the essence of life and a society which is static must be held to be dead. And if laws are to have constant relation to the realities of the life of the people—they are bad laws which have no longer such relation—they must undergo periodic though careful revision. Your functions also include the examination of draft Bills prepared and sent to you by the Government for opinion. It will now be my increasing endeavour as far as possible to avoid forms of legislation which do not bear the impress of your opinion and, whenever such forms are found in cases of urgency to be necessary, to define the occasions or confine their application to a definite period within which your opinion in regard to them should be sought. While recognising, however, that legislatures all over the world have to undergo considerable and patient drudgery in the critical examination of laws that are placed before them, I would urge upon you the necessity for simplifying procedure in such a way as to avoid unnecessary delay. Remember that the longest Bill in the history of the British Parliament, I refer to the Government of India Bill as it then was, consisting of over 600 clauses, was fully discussed clause by clause, criticised, explained and amended, passed through three successive readings in the House of Commons and the House of Lords, with amendments introduced practically in each reading in each House, and received the signification of His Majesty's Assent within 7 months of its first introduction in the House of Commons. Remember also that each of the two Houses of Parliament is about 30 times as large as your present Council and that the Bill contained perhaps the most complicated piece of legislation which it has ever fallen to the lot of any single legislature to enact.

I must congratulate you here on some of your achievements in the last session, particularly in so far as social legislation is concerned, for example, your Bill dealing with the remarriage of Hindu widows. Social legislation of a kind affecting the religious laws of a particular community is difficult for any Government to introduce and the difficulty can only be solved if a community desirous of such legislation initiates it by agreement among itself and then suggests its adoption to Government. Whenever such legislation is introduced, it would be a wise and fair convention if other communities not affected by it were to refrain from voting on its issue. I must, further, express my satisfaction at the interest you have taken in subjects like Compulsory Primary Education. Government are in the fullest sympathy with the principles underlying the Bills which you requested leave to introduce in this House and if that leave is being withheld it is because, firstly, it was felt that the financial implications of compulsion had not been fully dealt with in the Bills proposed and, secondly, because Government have themselves been contemplating the introduction of a measure on the subject. My Hon'ble colleague, the Education Member, has assured me that his Bill will be ready in due course and I hope it will not be long before it is placed before you for opinion. Among legislation which will similarly be placed before you will be the draft of a Press Regulation which, I hope, will embody a considerable measure of advance on the present position.

The remarks I have so far made are only introductory to the main object of my visit to you today. I have the honour to be the bearer of a Message from our August Sovereign to you and I am sure that the present occasion will, on account of that Message, long be remembered in the annals of this House. (I request you to pay to it the respect that is its due and to receive the Message standing).

His Exalted Highness has commanded me to convey to you the following:—

“To my beloved people my earnest prayers to Providence for their happiness and welfare!”

“I had in my Firman, dated the 14th Jamadi-ul-Awwal 1338 Hijri, directed the then President of my Council to collect data which would enable me to devise

a scheme of reform and expansion of the Legislature consistent with the educational and moral progress of my people. I have since then given constant and anxious thought to the problem of increasing the association between my people and my Government by the creation of a body or bodies representing the main interests in my State from which my Government could derive adequate and constant knowledge of the needs and desires of my people. Upon seeking the views of my Executive Council in this regard, I have received encouragement by the opinion tendered by them and have resolved that preparatory steps may be taken in this direction before the close of my Jubilee Year. I have entrusted the task of formulating proposals on the subject to the Constitutional Affairs Committee of my Council but I and my Ministers feel that in formulating proposals that Committee would be considerably assisted, in a matter which so closely concerns the public, if it has before it also the views of an independent and experienced body, consisting of officials and non-officials alike. I have communicated my detailed instructions regarding the composition and the terms of reference of this Committee to my President of the Executive Council who is also your President and the bearer of this, my Message to you today. It is my wish that the work entrusted to the Committee should be completed within the shortest possible time and that the results should be submitted to my Government within a period not exceeding six months. I am confident that the Committee will realise the responsibility of the task entrusted to it and will discharge it in a manner worthy of its importance. 'I can only endeavour, but it is with God to dispose.' "

The Committee thus appointed by His Exalted Highness consists of the following members:—

- (1) Dewan Bahadur Aravamudu Aiyangar whom His Exalted Highness has been pleased to nominate as Chairman and who will have a casting vote.
- (2) Mr. Ghulam Mahmood Qureishi, H.C.S.,
- (3) Professor Qadir Husain Khan,
- (4) Mr. Kashinath Rao Vaidya,

(5) Mr. Mir Akbar Ali Khan.

Mr. Syed Yusuf Ali, H.C.S., is being specially detailed to act as Secretary to the Committee.

As you will see, there are three non-officials on the Committee, including the Chairman himself, and only two officials. The terms of reference of the Committee have been defined as follows:—"Keeping in view the conditions in and the requirements and circumstances of the State, to investigate and report on all suitable alternatives for the more effective association of the different interests in the State with the Government whereby the latter may be placed in continuous possession of their needs and desires." These terms have been kept wide deliberately so that the Committee might be unhampered in a comprehensive study of the problem. Its report will be confidential and, while Government cannot obviously bind themselves in advance to accepting its recommendations, they can give the fullest assurance that they will be given the most careful and sympathetic consideration.

Gentlemen of the Legislative Council, we are meeting at a time of unprecedented changes all over the world. Dictatorships on the one hand and liberal systems on the other are engaged in a conflict of ideologies the outcome of which remains yet to be seen. Economic distress, too, has had its share in upheavals which have rent the world asunder. The sky is also heavy with the clouds of war and conflict. Yet, while we have not isolated ourselves from the rest of the world at a time when the barriers of space and the difficulties of communication are breaking, we have been fortunate in being spared the troubles and the distress, both political and economic, which have in recent years been the lot of less favoured nations. I claim that the reason for it lies in the unbroken peace and prosperity which we the subjects of this State have enjoyed under His Exalted Highness. This contrast with the conflicts and distress in other parts only teaches us that in covering the stages of progress we should jealously guard the great heritage which we here enjoy in common. The achievement itself would not have been possible but for the existence of an absolute identity of interests between the Ruler and the ruled and the inspiration of one State and one Sovereign which has been at the root of the accord existing between the different sections of the people of this State. It is the same identity

of interests and the supreme desire to maintain, indeed, to enhance it, that has resulted in the gracious Message which I have conveyed to you today and I am sure that all sections in this Council, in this great City and throughout the Dominions, will welcome with gratitude the lead given by His Exalted Highness in the direction of creating methods of consultation between his Government and the public. Let me take on behalf of all of us assembled here the following reply to the Message which I have had the honour to convey to you:—

“ The Legislative Council has heard with profound respect and satisfaction the gracious Message of the Sovereign conveyed through the President. It wishes respectfully to express its gratitude to the Sovereign for this signal act of statesmanship which will throughout be remembered as marking the Jubilee Year of a most benevolent rule. The Council begs respectfully to assure the Sovereign of its whole-hearted co-operation in the task undertaken by him and hopes that the method of work laid down and its results will open a new era of progress and prosperity in the State. It is confident that in submitting this reply it is interpreting the sincere wishes and feelings of all sections of the subjects of the State.”

CONFIDENTIAL

No. 836-C. C.

H.E.H. THE NIZAM'S GOVERNMENT,
CONSTITUTIONAL AFFAIRS
SECRETARIAT,

22nd September, 1937.

MY DEAR DEWAN BAHADUR,

I have it in Command to inform you that His Exalted Highness has been graciously pleased to nominate you as Chairman of a Special Committee, consisting of the marginally noted members, appointed by His Exalted Highness, in pursuance of his gracious Message conveyed today to the Legislative Council by His Excellency the President. His Excellency's speech itself is enclosed for your information and contains the terms of reference of the Special Committee. According to those terms, it will be the task of the Committee, "keeping in view the conditions in and the requirements and circumstances of the State, to investigate and report on all suitable alternatives for the more effective association of the different interests in the State with the Government, whereby the latter may be placed in continuous possession of their needs and desires." As has been remarked in His Excellency's speech, these terms have been kept wide deliberately so that your Committee might be unhampered in a comprehensive study of the problem.

Reference to the relevant parts of the speech will also show you that as Chairman you will be entitled to a casting vote whenever a matter is, in the judgment of the Committee, so posed as to require counting of the votes for and against.

The Secretary to the Committee will be Mr. Syed You-suf Ali, H.C.S., who will be specially detailed for full-time work in this connection during the six months within which, as stated in His Exalted Highness' Message, the Committee will be required to report the results of its labours to His Excellency the President.

It may be well to emphasise here that though Government reserve to themselves the right to publish the report and such publication is not altogether unintended, the proceedings and report must be regarded for the present as confidential and I am desired by His Excellency to request you, and through you all members of the Committee, so to dispose of the business of the Committee as to ensure the requirements of secrecy in regard both to your discussions and to your proposals. It is needless to add that His Exalted Highness' Government have sufficient confidence in the integrity of the Committee and its Secretariat to leave measures for the purpose entirely to the discretion of the Committee and its Secretariat. I am desired similarly to make it clear that, while His Exalted Highness' Government cannot obviously bind themselves in advance to accepting any of the recommendations made by your Committee, they desire to give an assurance that those recommendations will be given the fullest and most sympathetic consideration.

Your method of work will no doubt be decided by discussion among yourselves and with the Secretary to whom a communication is at the same time being addressed. As it is likely, however, that in discussing procedure the question may arise of issuing questionnaires or recording the evidence of persons outside the Committee, I am desired to state that, after a full consideration of the advantages and disadvantages of such a course, His Exalted Highness' Government have come to the conclusion that it might, quite apart from frustrating the requirements of any enquiry of a confidential nature, arouse unnecessary controversies in the public as well as in the press which, while affecting the independence of your own judgment, would disturb the calm atmosphere essential for wise decisions in a matter of such importance. I am desired, therefore, to state that, since the object of the appointment of the Committee was to associate, in a matter interesting the public and the administration so vitally, certain selected members of the public known to

be in possession of public views, with certain selected officials, known to have experience of the administration, so that they might jointly arrive at independent conclusions helpful to Government in formulating their final proposals, it will not be open to the Committee to call for or record any evidence whether from the public or from officials. It is possible, however, that a particular question may arise in the course of the discussions which, to the majority of the Committee, may appear to require the co-option of experts on that question while it is under discussion. If this need arises leave may be obtained of His Excellency to follow such procedure by an indication of the name of the person so to be co-opted and the purpose for which the co-option is desired.

As you will see from my letter to the Secretary, instructions have been issued to different departments and institutions for the provision of such facilities as the Secretary may, in the discharge of his duties, require from time to time. In addition, information has also been given to the Secretary regarding the staff placed at his disposal.

I am to add in conclusion that you have the best wishes of His Exalted Highness' Government for a successful termination of your labours. In conveying these to you, I am desirous to refer the Committee and its Secretariat to the confidence expressed by His Exalted Highness that you will realise the responsibility of the task entrusted to you and will discharge it in a manner worthy of its importance.

A copy of the present communication is being sent to all the members as well as to the Secretary while a copy of the communication addressed to the Secretary is being similarly sent to you and all the members of the Committee.

Yours sincerely,

ALI YAVAR JUNG.

DEWAN BAHADUR ARAVAMUDU AIYANGAR.

CONFIDENTIAL

No. 841-C. C.

H.E.H. THE NIZAM'S GOVERNMENT,
CONSTITUTIONAL AFFAIRS
SECRETARIAT,

22nd September, 1937.

MY DEAR YOUSUF ALI,

I have it in Command to inform you that His Exalted Highness has been graciously pleased to appoint you to act as Secretary to a special Committee, brought into existence in pursuance of His Exalted Highness' gracious Message conveyed by His Excellency the President in his speech before the Legislative Council today. For your information, I am enclosing herewith a copy of the letter I have been desired to communicate to the Chairman of the Committee, Dewan Bahadur Aravamudu Aiyangar. Similar copies have been sent to all the members of the Committee while a copy of the present communication to you is also being sent for information both of the Chairman and of the members.

* * * *

In order to provide further facilities to you in the discharge of your duties as Secretary to the Committee, letters have been addressed to the Chief Justice, the Secretary, Revenue Department, the Secretary, Legislative Department, the Pro-Vice-Chancellor, Osmania University, the Superintendent, State Library, the Principal of the Nizam College and the Secretary, Co-operative Union, for giving you such material or books as you or members of the Committee through you may desire for purposes of the report. The Secretaries to Government referred to above will, in supplying the necessary material or data, naturally be subject to the general rule regarding confi-

dential documents, but if in a particular case you consider that access to such documents is absolutely necessary for your work you will be empowered to collate material therefrom after obtaining permission from the Hon'ble Member concerned. I may add that you may include this Department also in the above list and I shall be only too glad to provide such facilities as it may reasonably be within my power to do.

As it falls usually to the Secretary to draft the report, it is pertinent to mention in this letter to you that the report to be submitted to Government must be drafted in the official language.

Yours sincerely,
ALI YAVAR JUNG.

SYED YOUSUF ALI, Esq., H.C.S.,
Deputy Secretary,
Public Works Department,
Hyderabad.

LIST OF APPENDICES SUBMITTED WITH THE REPORT

APPENDIX I

Statistical Appendix (English) containing 96 pages.

APPENDIX II

Proceedings of the Committee in English containing 293 pages.

APPENDIX III

Memoranda and Memorials received from the Public with a statement of their summary.

- (a) Memoranda and Memorials (Urdu and English) containing 495 pages.
- (b) Statement containing the summary of Memoranda and Memorials 17 pages.

LIST OF CHARTS AND MAPS

1. Map of the Dominions, in colours showing the different administrative divisions, area, population and revenue.
2. Chart showing the strength and composition of the Legislature in some of the Indian States with area, population, revenue and literacy.
3. Chart showing the previous proposals regarding the strength and composition of the Hyderabad Legislative Council.
4. Chart showing the present position and the proposals made by the Reforms Committee regarding the strength and composition of the Hyderabad Legislative Council.
5. Chart showing the powers and functions of the Legislature in some of the Indian States. (General).
6. Chart showing the powers and functions of the Legislature in some of the Indian States (Interpellations, Resolutions, etc.).
7. Chart showing the powers and functions of the Legislature in some of the Indian States (the Budget).
8. Chart showing the powers and functions of the Hyderabad Legislative Council as proposed by the Reforms Committee.
9. Chart showing particulars regarding Central Advisory Bodies and Standing Committees in some of the Indian States.
10. Chart giving particulars regarding the Panchayats in some of the Indian States.
11. Map showing the division of the Municipal area into wards and other particulars regarding the Hyderabad Municipal Corporation.
12. Chart showing the "institutional agencies" for associating "the people with the Government," the present position, and the Committee's proposals regarding such institutions.

CONTENTS

INTRODUCTION

	PAGE
INTRODUCTION	1
Appointment of the Committee	
Reasons for delay in submitting the Report	
The problem of enquiry and its aspects	

PART I

“The Conditions in and the Requirements and Circumstances of the State”

CHAPTER I

CONSTITUTION	5
Early form of Government	
Council of State	
Cabinet Council	
Legislative Council	
Executive Council	
Judiciary	
Judicial Committee Regulations	
Fundamental difference between the British and Indian States' Constitutions	
ADMINISTRATIVE DIVISIONS	8
Area and population of the State	
Berar and its Administration	
<i>Sarf-i-Khas, Paigahs, Samasthans and Jagirs</i>	
Administration of the <i>Sarf-i-Khas</i>	
Area, population, etc., of the <i>Diwani ilaqa</i>	
EDUCATION	9
Increase in expenditure	
Rise in the number of Graduates	
Percentage of Literacy	
The literary and scientific activities	
General awakening of Civic Consciousness	

	PAGE
Societies and Associations	
Awakening among Women	
Standard of Education necessary for the association of the people with the Administration	
GENERAL	15
Means of Communication	
General Amenities	
Increase in Departments	
World Forces	

PART II

“ Effective Association of the Different Interests in the State with the Government ”

CHAPTER I

PUBLIC SERVICES	21
Some opinions	
Eastern conception of Public Service	
Criterion of Public Service	
Role of Public Services	
World changes and Public Services	
Selection of Public Servants	
Appointment of a Committee	
LIBERTY OF ASSOCIATION, SPEECH AND WRITING ..	23
Press and platform	
Public criticism; its aspects	
Indian Press; past and present	
Suitable restrictions on Freedom of Association, Speech and Writing	

CHAPTER II

LEGISLATURE

Section I

GROWTH OF LEGISLATURE IN BRITISH INDIA	26
Charters of the East India Company	
Changes in the position of the Company	
Act of 1833 and Legislation	
Appointment of Law Commission	

Act of 1853 and enlargement of the Council for Legislation

Effect of the events of 1857 on Legislation

Council's Act of 1861

Act of 1892 and Reforms

Reforms of 1909 and extension of the powers of Legislative Councils

Reforms of 1919 and their Objective

Section II

HYDERABAD AND LEGISLATION 29

Need felt for framing rules and regulations for State Administration

Appointment of a Law Committee

Appointment of a Law Commission

Creation of Legislative Council

Rules of Procedure

Changes in the Composition of Council and inclusion of Non-officials

Increase in the strength of Council

Representative of *Sarf-i-Khas*

Firman regarding the expansion of Legislative Council

Report of the late Rai Balmukund

Appointment of a Committee of Executive Council to consider the Report

A Sub-Committee of the Executive Council formed

Joint Note of the Secretary, Executive Council and the Legislative Secretary

The present Legislative Council and proposals relating to its composition

Section III

PREVIOUS PROPOSALS AND METHODS OF ELECTION . . . 37

Bicameral or Unicameral Legislature depends on circumstances

Merits and Demerits

Hyderabad and Bicameral Legislature

Tendencies of the time and the Nobility

Changes in British India

Separate House for Aristocracy not desirable

Joint Report (Montagu-Chelmsford) and Communal Representation

Communal Representation in British India

Differences in the demands made by the Public

Differences of Language, Race and Religion, and Body-politic	
Co-operation	..
Drawbacks of Territorial and Communal Constituencies	
Indian conditions and economic reconstruction through Functional Representation	
Mr. Vaidya's dissent; his views	
Committee's Observations on his views	

DIFFERENT INTERESTS, METHODS OF THEIR REPRESENTATION AND THE PROPOSED STRUCTURE	54
---	----

Representation of specific economic and industrial interests
Corporative State: Representation for productive classes on the basis of equality
Organization of Economic and Political life through societies for different Interests
Traditions of the State; and other circumstances
Legal
Medicine
Education
University and Graduates
Engineering
Women
Harijans and other Depressed Classes
Labour
Municipalities
Industry
Commerce
Sahucars and Bankers
Agriculture
Land-holders and Agriculturists
<i>Samasthans</i>
Jagirdars
<i>Zamindars</i> and <i>Inamdars</i>
<i>Sarf-i-Khas</i> and other <i>ilagas</i>
Importance of Interests; and number composing them
Proportional Representation; Single Transferable Vote
Difficulties in adopting the above system
Association and the framing of rules
Government Nominations
Principle of Nomination

Section IV

FUNCTIONS AND POWERS	66
Functions and Powers of Legislatures in Indian States	
Detailed enumeration of Legislative Subjects	
Subjects outside the purview of the Legislature	
Matters expressly excluded from the purview of the Legislature	
Matters on which legislation could only be introduced by Government	
Matters on which Bills could be introduced without previous permission of Government	
Matters in regard to which previous permission of Government is necessary for introducing Legislation	
INTERPELLATIONS, RESOLUTIONS, AND MOTIONS ..	77
Interpellations	
Resolutions	
Conditions governing the above rights	
President's Powers	
Motions	
Adjournment Motions	
Petitions	
BUDGET	79
Introduction of Budget to be left to Government's discretion or made obligatory	
Official Members' opinion	
Whether right of general discussion on the Budget or voting on grants should be given to Legislature	
Appropriation of Revenue; Rejection and Reduction of Grants	
Emergent Expenditure	
Additional and Supplementary Demands	
Items of Expenditure outside the purview of the Legislature	
OTHER IMPORTANT PARTICULARS REGARDING THE LEGISLATURE	81
Life of the Legislature	
Language of the Legislature	
The Bills to have recommendatory value; Power of Veto	
Enforcement of Rejected Bills	
Ordinances	
Oath of Allegiance	

CHAPTER III

CENTRAL ADVISORY BODIES

Section I

CENTRAL ADVISORY BODIES	85
Importance of associating non-official experts and representatives of Interests with Administration	
Advisory Standing Committees in Progressive Indian States	
The Composition and Functions of such Boards and Committees	
Conditions governing the work of these Committees	
Composition and Functions	
Board of Public Health and Sanitation	
Agricultural Development Board	
Industrial Development Board	
Board of Education	
Finance Committee	
Committees for the management of Endowments: and appointment of a Commission to enquire into the administration of the Ecclesiastical Department	

Section II

DISTRICT CONFERENCES	91
Why a Representative Assembly on the Mysore model be not established	
Representative Assembly inadvisable: District Confer- ences proposed	
Object of such Conferences and Rules and other matters	
Advantages of holding the Conferences	

CHAPTER IV

LOCAL SELF-GOVERNMENT

Section I

GENERAL	95
Local Self-government Institutions	
Importance and Advantages of these Bodies	
The past and present of the Local Self-government Institutions	
Constitution of Panchayats, Judicial Benches, and Reorganization of Municipal Committees and Rural Boards	

Section II

PANCHAYATS AND JUDICIAL BENCHES	..	..	97
The ancient Panchayats of India			
Attention of the British Government drawn to Local Bodies			
Panchayats in different Provinces and Their Functions			
Panchayats in Indian States			
A Panchayat for a Village is more desirable			
Proposed Method of Election			
Other general matters			
FUNCTIONS	..	..	100
Functions of Panchayats			
Working of Panchayats in British India and Indian States			
Separate Benches for the discharge of Judicial Functions			
Administrative Functions of Panchayats			
CONTROL	..	..	103
Appointment of Special Panchayat Officers			
FINANCES	..	..	104
Income of Panchayats			
Some opinions regarding Village Officers			

Section III

DISTRICT AND TALUQ BOARDS	..	..	107
Proposal to abolish the Taluq Boards			
Abolition of District Boards not desirable in public interest			
Administrative considerations			
Financial considerations			
Representative element on District Boards, and method of representation			
Official and Nominated element, and proposed Constitution			
Term of District Board; President and Vice-President			
Functions			
CONTROL	..	..	113
Need for control			
Government control of Rural Boards in British India			
Latitude to be allowed to Local Boards consistent with Governmental Control			

	PAGE
FINANCES	115
The distribution of Local Cess; and Cess on the Akbari Revenue	
<i>Section IV</i>	
MUNICIPAL AND TOWN COMMITTEES AND THE CITY MUNICIPAL CORPORATION	115
Present position	
General Functions	
Municipalities	
Town Committees	
CONTROL	121
Government control; Ordinary and Extraordinary	
FINANCES	121
Sources of Revenue	
Establishment of Committees in Non- <i>Diwani ilaqas</i>	
HYDERABAD MUNICIPAL CORPORATION	122
Present Composition	
Proposed Method of election, and Amendment of the relevant Sections of the Act	
Proposed Composition	
Non-official President	
The experiment and its future	
<i>Mir Mohallas</i> and their Committees	
CHAPTER V	
MISCELLANEOUS	
MISCELLANEOUS	126
CHAPTER VI	
SUMMARY OF RECOMMENDATIONS	
SUMMARY OF RECOMMENDATIONS	129
Sovereignty	
Public Services	
Civic Rights	
Representation of Economic Interests	
Legislative Council	
Central Advisory Boards and Committees	

Commission to Investigate Religious grievances	
District Conferences	
Panchayats	
Judicial Benches	
District Boards	
Municipal and Urban Committees	
Hyderabad Municipal Corporation	

PART III

SUMMARY OF REPRESENTATIONS RECEIVED FROM THE	
PUBLIC	135

INTRODUCTION

The problem entrusted to the Committee is expressed as follows:—

The problem
of enquiry
and its
aspects

“ Keeping in view the conditions in and the requirements and circumstances of the State, to investigate and report on all suitable alternatives for the more effective association of the different interests in the State with the Government whereby the latter may be placed in continuous possession of their needs and desires.”

The problem, thus stated, consists of two parts. One calls for the suggestion of “ suitable alternatives for the more effective association of the different interests in the State with the Government.” The other invites the Committee to “ keep in view the conditions in and the requirements and the circumstances of the State.” As an elucidation of the latter should necessarily form the preliminary background to any recommendations that may be made under the former, Part I of the Report deals with “ the conditions in and the requirements and circumstances of the State,” and Part II with the recommendations the Committee has to make. The Report closes with a summary of the several proposals received from the public.

PART I

**“ The conditions in and the requirements and
circumstances of the State.”**

CONSTITUTION

“The early form of Government in this State was a pure autocracy and was carried on through a Dewan.”

Early form of Government:
Firman-e-Mubarik dated

During the ministership of the late Nawab Salar Jung II, a Council of State was appointed by the late Highness. But experience soon showed that “the laying of the entire responsibility of administration on the shoulders of the Madar-ul-Moham was too great a burden for a single person to bear.” So “the Assistant Ministers were required to share certain important responsibilities with the Prime Minister,” and the Council of State was replaced by an advisory committee, with the Prime Minister as president, and the Assistant Ministers and the Peshkar as members. This body came to be known as the Cabinet Council. All important proposals which concerned the welfare of the State and its subjects, as also differences of opinion between the Prime Minister and the Assistant Ministers over any question were considered by this body, before they were submitted to the Ruler for his decision.

11-2-1329 F. (16-11-1919)

Council of State:
Firman-e-Mubarik dated 5th Rajab 1310 H., 21-4-1302 F. (24-1-1893)

Cabinet Council:
Firman-e-Mubarik dated 13th Rajab 1310 H., 29-4-1302 F. (2-2-1893)

Along with this Cabinet Council, the late Highness instituted a Legislative Council composed of the following:—

Legislative Council

1. Chief Justice of the High Court.
2. A Puisne Judge of the High Court.
3. Inspector-General of Revenue.
4. Director of Public Instruction.
5. Inspector-General of Police.
6. Financial Secretary.

Consequent upon the resignation of the Prime Minister, Nawab Salar Jung II, the administration was conducted personally by the late Highness for over a year. During this period the two bodies referred to above continued to function as before. The regulations framed for their guidance made it clear that “His Highness reserved the power to modify or reject the decisions of the Councils as he pleased” and “that nothing in the said regulations should in any manner prejudice the royal prerogatives,

and that such prerogatives would be used by His Highness at any time and in any manner as he pleased."

On the assumption of sovereignty, His Exalted Highness found it necessary to perform the duties of the Prime Minister himself for nearly five years, and had occasion to discover various defects and weaknesses which prevailed in the system of administration.

Firman-e-Mubarik
dated
22nd Safar
1338 H.,
11-2-1329 F.
(16-11-1919)

In regard to the Cabinet Council, it was observed that "in spite of occasional attempts made to rejuvenate it, it has ceased to play its appointed part in the machinery of government. Its collapse has been ascribed to its character merely as a deliberative body, without power to enforce its decisions and without responsibility for the consequences of their practical application. Its virtual disappearance as an institution of the State may be looked upon as suggestive of the lack of those conditions of success which ought properly to constitute the foundation of every political structure intended for the prosecution of great objects, and for the realization of large results, connected with the advancement of public welfare." His Exalted Highness felt that the "change of time, complexities of modern life, new political perceptions in the East and internal and external interests of my Dominions have put such a severe strain upon personal and direct control as to call for some immediate measure of appreciable relief."

Executive
Council

In view of these considerations, His Exalted Highness was pleased to state "I have felt the need for relief from the greater portion of the duties of the Prime Minister which I have discharged for the past five years. I have decided upon the abolition of the Cabinet Council, and upon a large measure of devolution of the labours and responsibilities of Government, subject to my control and authority. I have it in purpose to employ on a large scale institutional rather than personal agencies for the better administration of my State."

This was how the Cabinet Council came to be abolished, and the Executive Council formed.

Judiciary

As regards the reorganization of the judiciary, the following Firman-e-Mubarik dated 29th Shaban 1339 H. (8-5-1921) was issued.

“The question of the separation of judicial and executive functions in the administration of my Dominions has engaged my attention for some time. Having carefully examined the problem, I have decided to introduce this reform in the machinery of my Government, as I feel sure it will secure greater efficiency and thereby ensure a larger measure of happiness and contentment to my beloved subjects. In the scheme of separation it is my desire that my executive officers should be relieved of all purely judicial duties save and except such as may have been provided for by the Revenue Laws of my Dominions or may in some instances relate, under the Criminal Laws, to emergent measures affecting public tranquillity. My Sadr-i-Azam (Prime Minister) is authorised to carry out the separation of functions with as little delay as possible. The details are left to him for execution. If fresh legislation be necessary, he will determine the extent to which it will be needed.”

In this connection Section 17 of the Royal Charter of 1344 H. (1925-26) runs as follows:—

Judicial
Committee
Regulations

“The judgments of the High Court shall be final; but with a view to the enforcing of our royal prerogatives, the regulations of the Judicial Committee which have been sanctioned by us, shall have to be duly observed.”

This in brief is a description of the Constitution of the State, from which it may easily be seen that the Ruler of the State is not merely the supreme head of the executive, but also the source of law and justice. Internally such is the position of the State. Externally, it is defined by special treaties which, however, do not fall within the purview of the Committee.

Bearing these facts in mind, the Committee feels that an attempt may confidently be made to allow every growing need of the State to harmonize with its constitutional position. For this, it is not imperative that one should copy the British model too meticulously. The British Constitution has grown out of England's long history and is the result of centuries of strenuous struggle between its King and its Parliament. There, a two-party system sustained by the spirit of compromise, and the conception of ‘the sovereignty of the people’ has struck deep roots into the soil. The peculiarity, on the other hand, of the Indian States is this: the Head of the State represents

Fundamental
difference
between the
British and
Indian States'
Constitution

the people directly in his own person, and his connection with them, therefore is more natural and abiding than that of any passing elected representatives.* He is both the supreme head of the State and the embodiment of his 'people's sovereignty.' Hence it is that in such a polity, the head of the State not merely retains the power to confirm or veto any piece of legislation, but also enjoys a special prerogative to make and un-make his executive or change the machinery of government through which he meets the growing needs of his people.† Such a sovereignty forms the basis on which our Constitution rests, and has to be preserved.‡

The task before us therefore is to suggest, in the interests of efficient administration, such measures as may promote a more effective association of the different interests with the administration. But before we enter upon this task, it seems necessary to take a general survey of conditions prevailing in the country.

Administrative Divisions

Area and
Population
of the State

The Dominions of Hyderabad and Berar cover 1,00,459 sq. miles, and contain a population of 1,78,88,986.

* "The governing idea is this:—The Head of the State represents the people *directly* and *primarily* in his person, whether, as in the case of the Mikado or of a Hindu Sovereign, as the symbol of the Shinto, the *Dharma* or the law, in hereditary succession and transmission, . . . or, as in the case of the President of the United States, as the elected representative of the people's sovereignty, standing in an even more direct and vital relationship to the people than the members of the Representative Assemblies and Legislatures." (Report on the Constitutional Developments in Mysore, 1923, p. 5).

† "In such a polity, the Head of the State, whether a hereditary Ruler or an elected President, exercises, as representing the people's sovereignty, a double prerogative, viz., (1) in the sphere of legislation, the prerogative of ratification (including the veto) and (2) in the sphere of executive government the prerogative of creating and uncreating the organ of Government, the Ministry. And both these prerogatives are exercised much more fully, really and substantively than by the constitutional head of a limited monarchy under 'responsible' Government." (Report on the Constitutional Developments in Mysore, 1923, p. 4).

‡ "We are to preserve the original unity intact, that sovereignty which is the symbol of the *Dharma* or Law." (Ibid.).

The territory of Berar under an agreement recently modified is bracketted with the Central Provinces for purposes of administration. Excluding this area, the State occupies 82,698 sq. miles with a population of 1,44,36,148. Of this, Secunderabad, Bolarum and Aurangabad Cantonments cover 2,253 sq. miles with a population of 1,28,383. 58.5 per cent. of the total area consists of the *Diwani* or *Khalsa* lands, and the rest is composed of *Sarf-i-Khas*, *Paigahs*, *Samasthans*, *Jagirs*, and *Inam* lands. The State contains about 22,500 villages of which over 6,000 lie in non-*Diwani* portions of the country. In the non-*Diwani* area there are several Jagirs which enjoy extensive judicial and administrative powers. Such Jagirs with an annual income of over Rs. 6,000 occupy 12,000 sq. miles altogether with a total population of over 23 lacs.

Berar and its
Administration

Sarf-i-Khas,
Paigahs,
Samasthans
and *Jagirs*,
etc.

Of the 18 Taluqs of the *Sarf-i-Khas*, 7 are entirely under the control of a *Sarf-i-Khas* Taluqdar. 7 others are administered exclusively by the officers of the *Diwani*; and their revenue, after meeting the cost of administration, is transferred to the *Sarf-i-Khas*. The remaining 4 of the *Sarf-i-Khas* Taluqs are managed by the officers of the *Diwani* in consultation with the Secretariat of the *Sarf-i-Khas*.

Administration
of the
Sarf-i-Khas

The accompanying map gives the area of each class of territory together with its income and population; while Appendix I, pages 24 to 59 gives the strength of the population in each division according to the crafts and professions followed by the people.

Area, Population,
etc., of
the *Diwani*
Ilaqa

Education

In the year 1330 F. (1920-21) the expenditure of the Department of Education was less than 14 lacs; in 1344 F. (1934-35) it reached a crore of rupees. The increase has been still higher during the years which have followed. In 1330 F. (1920-21) there were 1,036 institutions with 66,484 pupils. In 1340 F. (1930-31) the figures were 4,336 and 2,90,192 respectively. By the year 1345 F. (1935-1936) the strength rose to 4,800 and 3,64,252. The actual figures for 1346 F. (1936-37) are not available, but it is assured that there has been a further increase

Increase in
Expenditure

in number.*

Rise in the
number of
Graduates.

In 1330 F. (1920-21) the number of graduates available in the Dominions was estimated at about 200.† This number included holders of Oriental titles considered equivalent to B.A. It is possible that this was an under-estimation, as it might be that a few of the graduates failed to respond to the notification at the time calling for a registration of their names. Still the number could not have been a large one.

As against this, the number of graduates available at this moment, even excluding the Oriental title-holders, is fairly large. The Osmania University has since its inception produced 1,100 in its Faculties of Arts and Sciences alone, and between 1911 and 1938 the Nizam College has turned out more than 500. The annual average for the two institutions for the past five years is 90 and 35 respectively. In addition to these, the degree-holders in Medicine, Engineering, and Agriculture are to be taken into account, as also those who have proceeded abroad either with Government scholarship or loan or on their own account and obtained degrees from foreign Universities.

In 1330 F. (1920-21) there were hardly more than 1,000 in the Dominions who had passed the Matriculation or any equivalent Oriental titles examination. Now on an average more than 1,100 come out successful every year at the Hyderabad School-leaving Certificate and the Osmania Matriculation Examinations.

Percentage of
Literacy.

It should be admitted that the average percentage of literacy in the Dominions is rather low. But now that Government have decided to follow a policy of free and compulsory education and arrangements are being increasingly made to impart primary education through the medium of one's mother-tongue, it may confidently be anticipated that the percentage of literacy in the country will rise rapidly hereafter.

* Appendix No. 1, page 61 gives a statement which illustrate the rise in the number of schools and pupils.

† Rai Balmukund's Report, page 53.

		A comparative statement of literacy for some of the Indian States taken out of the last Census Report of 1931, is given in the margin, and it is hoped that during the years which have since elapsed the average percentage for Hyderabad has been on the increase from year to year.	
		Males. Age 5 and over. Per cent.	Females. Age 5 and over. Per cent.
Cochin	..	46.0	22.0
Travancore	..	40.8	16.8
Baroda	..	33.1	7.9
Mysore	..	17.4	3.3
Hyderabad	..	8.5	1.2
Kashmir	..	7.0	0.6

The Osmania University has marked the beginning of a renaissance. As a result, literary, scientific and debating societies have come into being; various magazines and journals have been started; and books in every branch of learning are being produced. Alongside of this intellectual awakening, there has been an increasing regard shown for physical culture as evidenced by the activity of the Department of Physical Education, the Scout and Girl Guide organisations and the educational excursions conducted by the different institutions, and also the popularity of athletic sports and games all over the country.

There is a general awakening throughout the Dominions manifesting itself in the convening of conferences, the formation of societies and journalistic activities. So far, nearly 250 associations* with various aims and objects, and joint-stock companies have been formed, and if an increase in the number of co-operative societies† can also be taken to indicate a people's urge for corporate endeavour, it may be stated that the people here have begun to show an increasing tendency to work together for common objects.

The new awakening has had its influence on the womenfolk as well, who are now trying to drop their old exclusiveness and conservatism and betake themselves in a spirit of social service to suitable paths of public activity. Those who are conversant with the condition of female education in Hyderabad fifteen years

* Appendix I pp. 62-63.

† Appendix I p. 60.

ago and of their social life at the time, will not fail to notice the great change wrought among them by this awakening. Quite a large number of women's clubs and associations are in existence today in the city and districts, affording opportunities to them of educational and social service. There are even branches in the districts, of the All-India Women's Association for Educational and Social Advancement. What is more, the patronage and guidance which Her Highness the Princess of Berar and Princess Niloufer are so graciously extending to the movement have given to it a prestige all its own.

Standard of
Education

The question that presents itself at this stage and which is pertinent to our enquiry is this: What standard of education, particularly political, is indispensable to warrant the association of the people with the administration or to prove their capacity for it. This is however a matter on which different views may be held. It may be mentioned that when the Minto-Morley Reforms were being considered it was thought that it was not proper to display any undue haste in sowing the seeds of democracy on a soil where autocracy had flourished luxuriantly for centuries.* Mr. Montagu while reviewing the British Indian administration at the time had observed that the Government in India had failed to cultivate the co-operation of the people.† But he was faced at the same time with the incongruity that existed between the very high aspirations of a mere handful of Indian leaders and the very low level of the educational condition of the masses.‡ Further, when he went on to reflect over those

* "We must remember that our own people at home have been educated for centuries in the idea of constitutional government, and have only advanced by slow steps to the popular representation of today. Here everything is different. From time immemorial it has been the rule of dictators, and we must be careful not to thrust modern political machinery upon a people who are generally totally unprepared for it."

† "Cultivation of the co-operation of the people is the chief one that we have missed."

‡ "But the difficulty is, as I have so often said, that owing to the thinness with which we have spread education, they have run generations away from the rest of India, and, whatever might be done in theory, in practice this would be only another indigenous autocracy."

conditions, conventions, customs and habits of representative government, without whose fulfilment no democratic institutions could prosper, he felt really diffident to take any long step forward.*

There is however a school of thought which lays emphasis on the fact that every true education, particularly political is the offshoot of only democratic or independent institutions, and that any insistence on a high standard of education as preliminary to any association of the people with the administration is neither justifiable on its own merit nor supportable by the facts of experience. Such a view was held by the late Sir Ali Imam. The intellectual reaction which a study of local conditions had produced in his mind, is set forth in a footnote below.†

* "What we want, as I have said before, is a growth of those conventions and customs and habits of representative government without the acquisition of which democracy cannot stand, without the cultivation of which representative institutions are an expression of something which does not exist."

† "It has been said by persons whose opinions are undoubtedly entitled to weight, that owing to backwardness in their educational equipment, Indians generally are not fit for representative institutions, and the same argument might perhaps be levelled against the people of Hyderabad with greater force. Now although the education of the citizens of a State is indispensable to the efficient working of its representative institutions, the extent to which a merely elementary instruction fits them to work such institutions has been, in my opinion, overestimated. "Knowledge is one only among the factors which go to the making of a good citizen. Public spirit and honesty are even more needful." It has been well said that 'attainment in learning and science do little to make men wise in politics.' This incapacity need not therefore frighten us. One important factor of fitness to work representative institutions is, to be associated with them in practice. No nation is unfit for free institutions. If a man waits for absolute perfection, the world would come to an end before free institutions are established. The world must be taken as it is. It cannot be said that the Hyderabad people are so ignorant as not to know their wants, or that they are so poor that they have no proprietary or possessory interests, for the perfection of which they are solicitous. After all, the test of civic capacity in individuals or classes is in the power of voting for the best men and supporting useful measures; and any one closely acquainted with the natural shrewdness of the classes which are proposed to be enfranchised, would readily admit that they

The two attitudes referred to above may seem to embody extreme views. Without, however, favouring either side for the sake of any academic discussion, we feel inclined to believe that the growing awakening among the people of Hyderabad, and their steady educational advancement, call for and even warrant the association of the people with the administration.

will acquit themselves at least as well as what are called the educated classes. Moreover it must not be forgotten that free institutions have the faculty of reacting on the adverse conditions in which the start has to be made. The backwardness of education may embarrass the experiment at the outset, but it certainly ought not to stop it, because popular government is sure to promote the spread of education.

If it were necessary to cite instances of European and American countries where popular institutions were created in spite of the backwardness—in some cases worse than that of Hyderabad—of its people in education and public spirit, the example of Canada may be cited, at the time when Lord Durham recommended Parliamentary Government for Canada. In his report he stated that “it is impossible to exaggerate the want of education among the inhabitants. No means of instruction have ever been provided for them, and they are almost and universally destitute of the qualifications of even reading and writing.” In Japan practically the same conditions existed at the time when constitutional government was established. The conditions in England itself prior to the introduction of the Reform Bill of 1832 are an interesting study in respect of, and an effective reply to, objections of this nature. In their report on the Constitutional Reforms in India the authors have elaborately pointed out and emphasised similar difficulties attending the reforms contemplated in British India, and to some extent the same difficulties can be pointed out in these Dominions against granting like reforms. But, as observed by the authors themselves, ‘the particular numeral representing the proportion of the population asking for free institutions is a matter of no concern whatever. The extent of the demand or the depth of feeling underlying it cannot be judged by the crowds at political meetings, or the multiplication of newspapers.’ At the same time it would be folly not to reckon with the suggested difficulties, and they must lead us to adjust the form of the institution familiar elsewhere to the special conditions of life in Hyderabad. It is therefore unnecessary to justify at any length the gracious intention of His Exalted Highness to establish in Hyderabad representative institutions on modern lines, which by associating the people with the everyday work of the administration would increase their chances of influencing, where they cannot actually control it, and thus knit more closely the ties that bind the people of these Dominions to the *Musnad* and the person of His Exalted Highness and to the Dynasty of the Asaf Jahs.”

GENERAL

During the last 25 years, in addition to the ordinary annual expenditure, the Public Works Department has spent 27.49 crores over major projects, trunk roads and large bridges. The Railway has been brought under the direct management of the State. In recent years, over 700 miles of rail-road has been laid and a proposal to lay a further line of 120 miles is about to materialise.

Construction
of Roads:
Railway
Lines

The Railway Bus Service is extending rapidly over the length and breadth of the Dominions. Schemes for the supply of water, and of electricity, and telephone service are working a change in the life of the districts. Radio is being introduced in urban and rural areas. The State telephone lines are being joined to the main trunk lines. An Aero Club has been formed and the City of Hyderabad is connected with the All-India Postal Air Service; and arrangements for the establishment of a network of air lines are nearing completion. The work of agricultural demonstrations, industrial exhibitions, marketing of the country's produce and rural reconstruction is moving apace in all parts of the country.

Bus Service,
Telephone,
Radio and
Electricity

The several organisations set up to promote this many-sided activity, may not in a technical sense be styled educational institutions, but from a practical standpoint, they have been of great educative value to the masses, and have contributed in no small measure to the general awakening in the country. Hence, even granting that Lord Durham whom Sir Ali Imam had cited in his support was filled with undue optimism while submitting his report on constitutional reforms for Canada, and granting also that Sir Ali Imam himself had not had the opportunity to study local conditions in detail when he made his proposals for the expansion of the Hyderabad Legislative Council about two decades ago, it is not easy to say, that the people here have not as yet acquired the capacity to associate themselves with the administration.

It is obvious that the departments of administration which have thus contributed to the educational advancement and general awakening of the country would not have proved so useful but for the large funds Govern-

Increase in
Departments

ment have been able to place at their disposal.* While their creation unmistakably should demonstrate that Government has been alive to the ever-increasing needs of the people, their very existence for the discharge of various functions and services should call for a like provision of institutional agencies in the country such as would bring the people into "more effective association" with the administration.

World outside Modern science has so narrowed down the world and so closely knit its different parts together, that unless a country is prepared to court material and moral bankruptcy, it cannot afford to remain unaffected by world forces. For its own safety and progress, it will have to accommodate all progressive and healthy forces around so as to strengthen its peculiar constitutional and moral foundations, and prepare the people to march abreast of the times.

A thinker has likened the life of a nation to a strong current which while absorbing the past and the present in itself, moves boldly forward into the future. He thinks that a nation which tenaciously adheres to the past cannot live; and should it ever attempt to stem the current, it will only make it swell and grow fiercer. If this is

State Finances * The estimate of Revenue Receipts for this year (1937-38) has been put down at 9,13,66,000 and the Expenditure from these revenues has been estimated at 8,96,00,000. Thus the surplus at the end of the year is expected to amount to 17,66,000. The expenditure provided from past surpluses is 60,09,000 and the amount estimated to be spent by various departments from their savings of the previous years is about 8,39,000. Thus the total amount provided for service expenditure is 9,64,48,000.

The amount provided in the Budget this year for capital expenditure is 1,55,77,000 and against this, the amount estimated on account of Capital Outlay recovered is 5,10,000.

The amount provided under Investments is 12,83,000. This head will record a credit of 67,000 on account of 4 per cent. Municipal and Port Trust Debentures maturing for payment.

Excluding Paper Currency Reserve, the Reserves will amount to 11,50,00,000 at the end of the year. This represents the amount invested in Government of India and Municipal Paper and Securities of other reliable Companies.

Under Debt Heads, the incomings are expected to be 1,61,49,000 and the outgoings 1,17,67,000. Thus the net incomings under this head are anticipated to amount to 43,82,000.

true, every well-wisher of the State who sees what is passing on around him and feels the forces that are shaping a new world altogether, will reach the conclusion that for the greater internal and external security of the State, the different interests therein must be allowed to associate themselves with its administration. But he will necessarily have to bear in mind that such association will produce good results only when it is inspired by the traditions, and the basic principles of the constitution of the country.

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PART II

“Effective association of the different interests in the
State with the Government.”

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CHAPTER I

MEANS OF ASSOCIATION

- i. Public Services
- ii. Liberty of Association, Speech and Writing

When the question arises of "the association of the ^{Public} different interests in the country with the administra- ^{Services} tion" and of the ways and means whereby the needs and desires of the people are to be ascertained, the rôle the Public Services have to fill demands the foremost attention, because, on the one hand, they run the administration under the constitution and the laws of the State, and, on the other, serve as a channel through which the needs and desires of the people are made known to Government, and consequently they form an effective medium of association for the different interests in the country with its administration.

Some of the memoranda received from the public ^{Some Opinions} dwell on this subject. They suggest that the public services here should be essentially *mulki* in composition, and should be efficient, that the character of the public servants should be clean and above board, and that they should be sympathetic and courteous in their dealings with the public.

In books dealing with the religion and ethics of the ^{Eastern} East, while stress is laid on loyalty which should be ^{conception of} shown to a Ruler, it is also emphasised that the leader of a nation is verily a servant of the people, and that he bears on his shoulders the heavy burden of a divine trust or responsibility. This idea is implicit in the term *public services* also. Therefore, to designate 'service' as 'rule,' or 'duty' as 'authority,' or to let 'authority' ^{Criterion of} degenerate into 'oppression,' or again, to use an official ^{Public Service} position to subserve private or personal interests or "to help each other in sin and transgression" is clearly to betray this trust. And where public servants fall short of this standard, they rouse the forces of disorder and disaffection, and compromise the good name of the State.

Role of Public Services

It is sometimes suggested that a free intercourse between the officials and the public interferes with the effective discharge of public duties, when indeed it should be otherwise. If any officer feels, however, that it does, it is obvious that either he does not trust himself or he is incapable of distinguishing between his duty and his personal loyalties. No public servant should, in the discharge of his responsibilities, be influenced by personal friendships or heed the consequences of his right actions whether they affect his own personal interests or the interests of those dear and near to him.

In respect of the composition and character of the public services, it may be observed that public servants drawn from amongst the people themselves form a healthy medium of association between them and the administration, because they have an inherent and lasting attachment towards their ruler and country, and they possess easy and natural means of acquainting themselves with the needs and desires of their own people. It may be added however that the greater the efficiency of public servants, and the higher the tone they give to the administration, the more effective will be the association that they establish between the Government and the different interests in the country.

World changes and Public Services

The march of events after the great European War has been amazingly rapid, and a variety of new forces are at work around us. These forces have not merely introduced great changes in the economic and political order of the world, but have also powerfully altered the psychology of individuals and nations everywhere, and a bureaucracy which fails to appraise the new changes is liable to bring the administration into discredit. In order, therefore, that the good of the people may be effected in keeping with the march of time, and their willing co-operation secured, it is imperative that at every stage in the hierarchy of public services, proper selections should be made and preferment given wholly on the strength of character and ability. Consequently every form of nepotism and canvassing will need to be severely discountenanced and such standard of justice and fair play scrupulously maintained as would distinguish a right-minded judicial officer. And for this, a proper agency will have to be constituted which would

Selection of public Servants

Appointment of a Committee

ensure these conditions. We do not wish to proceed with this subject further, as Government themselves have chosen to take it up separately.

Besides the Public Services, there are two other means of ascertaining the needs and aspirations of the people—the public press and the public platform, through which the mind of the people is revealed. Psychologically the two agencies serve as safety-valves of public life, the closure of which often develops the canker of discontent in the body-politic.

It is needless to point out that where the motive for an action is sincere, one should rather welcome genuine criticism, for either it helps a person to correct himself in the light of the criticism, or the criticism itself will have to be withdrawn when the critic realizes that it was mistaken or uncalled for. But, where action is tainted or influenced by personal considerations, one is naturally averse to face criticism, and may therefore feel inclined to suppress it.

There is this however to be noted. The action of a person may be sincere and above board, and yet, at times, something is foisted on him by interested cliques. Sometimes he is damned with faint praise. Sometimes serious charges, purely concocted, are levelled at him so ingeniously mixed up with a few real or imaginary minor virtues that one may take the story to be true and the indictment impartial. Sometimes the weaknesses are painted in glaring colours, and the merits are entirely thrown into the background or suppressed, and wilful conclusions are deduced. Such is the mischief which is often allowed free play and needs to be guarded against, in the interests of a healthy public life.

The Indian press is still to grow into a healthy maturity. The past generation of Indian political leaders was not pleased with it* even as the present.

* "Where now do we find in literature or journalism the inspiration of patriotic impulse brushing aside all that is mean or contemptible or spiteful, leading national life upwards and onwards towards the fulfilment of a nobler destiny? We see none of it. It is all words from start to finish, or ill-will and hatred robed in the garb of patriotism."

This year, several Indian States have had to impose certain restrictions on the press. In the British Indian provinces also, various newspapers have been prosecuted. Even the Congress Ministries have had to set their face against the communal press. A local daily reviews present-day journalism in India in the following terms:—

“Leaving aside the journals conducted in other languages and by other nations, there are issued in Urdu alone more or less 800 newspapers of which 57 are dailies and 432 weeklies. . . . But of these 57 dailies and 432 weeklies, few there are which represent any political organization or any school of thought. Most of them form the private property of individuals, or are conducted under their patronage. We do not object to individual or corporate patronage in journalism, provided such patronage is exercised in pursuance of any principle or creed. Every organization has a right to propagate its views through its own organs. But we regret that in certain cases even organizations do not follow any definite principle or creed, but are merely intended to further some individual's personal influence or power in society. So, even the newspapers issued in the name of organizations very often reflect the personal views of their leaders and change their policy with the change in leadership. Indeed, political or national creeds have now become saleable articles whose prices vary with the varying demands of time.”

All this may be true. But it should not be supposed that every criticism is unwholesome and should be discountenanced. The point is that the two sides of every question should always be kept in view. It is apparent that mistakes are possible only by those who discharge responsible duties, and it is but natural that they may not like their shortcomings to be brought to light. In such circumstances public opinion helps to forewarn them in respect of the future, and should on that account be welcomed as a useful agency.

Suitable
restrictions on
Freedom of
Association,
Speech and
Writing

To establish equilibrium between opposite tendencies and maintain stable conditions in the life of a society, certain checks are naturally placed on ‘absolute’ freedom of speech and writing. Of these a few are always found in every country in the form of penal regulations;

and a few are imposed in abnormal situations. Several memoranda we have received have expressed the wish that full liberty of association, speech and writing may be granted here. Within legitimate bounds, support may be given to this idea. There is however no data before us to ascertain why the ordinary law has been considered inadequate to meet the necessary requirements. It is certainly not proper to offer any opinion in this matter without carefully examining all relevant material, and moreover there seems to be no need for going into the subject, as His Excellency the President, while addressing the Legislative Council, has assured that "among legislation which will similarly be placed before you, will be the draft of a Press regulation which will embody a considerable measure of advance on the present position." We expect that the 'legislation' contemplated will also include proposals which may relate to the other items of the demand as well.

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CHAPTER II

LEGISLATURE

Among the several institutions through which the “needs and desires” of a people may be ascertained and “effective association of the different interests in the country established with Government,” the legislature occupies a very important place; and we should therefore think it appropriate to begin with it. But before we do this, it seems desirable to trace the growth and evolution of the Legislatures in British India and also refer to the structural peculiarities of the legislatures in some of the Indian States, by way of supplying the necessary background to what we may propose in the light of our own conditions.

SECTION I

The Growth of Legislature in British India

Charter of the
East India
Company

The original charter granted to the East India Company, continued to be renewed till the year 1765, giving it the necessary authority to make such rules and regulations as did not contravene the laws of England in force at the time and as were necessary for the good administration of the territories under its control.

Change in the
position of the
Company
since 1765

The position of the Company up to 1765 was that of a mere trading corporation. But during this year, the Emperor Shah Alam conferred on the Company the Diwani of Bengal, Bihar and Orissa, in virtue of which it assumed control of their revenue. It had by now undergone several changes in status in consequence of the increasing interference shown by the British Government in its administration of the different possessions. Under a charter granted by George I in 1726, Bengal, Madras and Bombay were enjoying the power of making their own laws. But an Act was passed by the British Parliament in 1833 with a view to introduce unity and uniformity in legislation. Under this Act only the Governor-General in Council was given the power to legislate; and his Council which till then consisted of

Act of 1833
and
Legislation

three members was enlarged by the addition of a member for purposes of legislation. Besides, the Governor-General was empowered to appoint a Law Commission to draft legislative enactments. To this Commission of which Lord Macaulay was a member are due some of the substantive and adjective laws of the land.

Appointment
of Law
Commission

In the year 1853 the Council was enlarged further,				Act of 1853 and Enlargement of the Council for Legislation
1. Viceroy	..	..	1	and consisted of the mem- bers noted in the margin.
2. Commander in Chief	..	..	1	
3. Ordinary Members of the Executive Council	..	..	4	Under this Act the pro- ceedings of the Council were issued for public in- formation; and the public was allowed to attend its sittings.
4. Chief Justice of Bengal	..	..	1	
5. Judge of the Supreme Court	..	..	1	
6. Members nominated by Local Govern- ments	..	..	4	
Total			12	

After the events of 1857, it was realised that in a vast country like India where different customs and traditions and needs existed in different parts, a single legislature would not suffice. It was also realised that the non-official element which could represent the wishes of the people had not been included in the Council. So, the Indian Council's Act was passed in 1861, under which not less than six and not more than eight members were added for purposes of legislation, half of whom being non-officials. Alongside of this, Bombay and Madras were again entrusted with legislative powers, and following the principle applied to the Governor-General's Council, the two Provincial Councils were enlarged by the addition of the Advocate-General and of not less than six and not more than eight other members. Also the Governor-General was empowered to create new provinces with legislatures of their own. In this way every province came to have a separate legislature with a non-official element therein.

Events of
1857 and
Legislation

Council's Act
of 1861

The above Councils continued to function till the Act of 1892, when the following reforms were effected:—

Act of 1892
and Reforms

(1) The strength of the non-official element was increased as shown under:—

Governor-General's Council	..	10 to 16
Bombay and Madras	..	8 to 20
Bengal	..	20 maximum
United Provinces	..	15 ..

(2) The proportion in which the seats were distributed between the different communities was fixed not on the basis of their numerical strength but on the basis of their political importance. The Government reserved the power to confirm or to veto each election; but in practice all elections were invariably confirmed.

(3) The Central or the Provincial Legislative Council, as the case might be, was given the privilege of expressing its opinion on the annual budget; and, excepting certain items of administration, it was also given the right of interpellation.

In the year 1909, in the light of the views expressed by responsible Indian leaders the following reforms were effected:—

Reforms of
1909 and
extension
of the
powers of the
Legislative
Councils

- (i) The power to veto the election of any member was withdrawn by Government.
- (ii) The privilege of direct election was allowed to the Muslim community.
- (iii) A majority of seats were assigned to non-officials nominated and elected, in all the Provincial Legislatures; and the number was also materially raised in the Central Legislature as shown below:—

Name of Council	Official members including members of Executive Council	NON-OFFICIALS		Total
		Elected	Nomina- ted	
Imperial Legislative Council ..	86	27	5	32
Madras Legislative Council ..	20	21	5	26
Bombay Legislative Council ..	18	21	7	28
Bengal Legislative Council ..	19	28	4	32
United Provinces of Agra & Oudh Legislative Council ..	20	21	6	27
Eastern Bengal and Assam Legislative Council ..	17	18	5	23
Punjab Legislative Council ..	10	8	6	14
Bihar & Orissa Legislative Council ..	18	21	4	25
Assam Legislative Council ..	9	11	4	15
Central Provinces Legislative Council	10	7	7	14

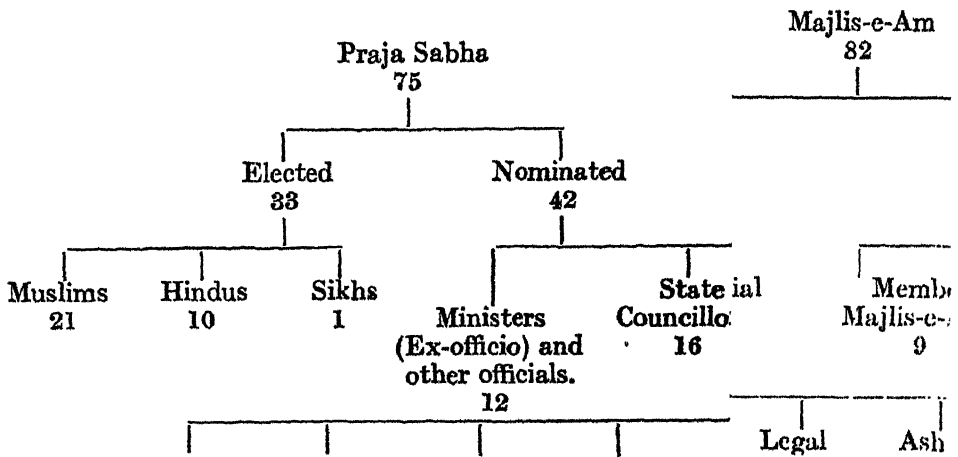
JAMMU AND KASHMIR.

GWAJ

AREA—84,258 sq. miles.

POPULATION—36,46,243.

REVENUE—2,45,00,000.

LITERACY—Males 5 years and above—7.0 per cent.
Females „ —0.6 „nd above
7.8 per cent.
1.1 „

- (iv) The powers of the Legislatures were enlarged, the rights of detailed discussion of the budget, of moving resolutions, and of demanding a division were granted, and, barring certain matters, the privilege of inviting the vote of the House on questions of public importance was also allowed.

It should be observed that the resolutions adopted by the Councils were merely recommendatory in character and were not binding on the Executive. The Governor-General or the Governor, as the case might be, presided over the Councils concerned.

The reforms of 1919 inaugurated a new phase of British administration in India. From a representative government, it has been developing ever since, into responsible government. Dyarchy was a special feature of the reforms of 1919, but the Act of 1935 has introduced autonomy in the Provinces; and the Federal part of the Act is yet to be brought into force.

The Reforms
of 1919 and
their Objective

Having briefly surveyed above the history of the legislatures in British India, we attach herewith a chart which will afford an idea of the structural peculiarities of the legislatures in some of the leading Indian States.

SECTION II

Hyderabad and Legislation

We now proceed to trace the various attempts made in our own State to evolve a Legislature.

The need for framing rules for the conduct of the administration was felt for the first time by the late Nawab Sir Salar Jung in 1278 F. (1868-69). Soon after the adoption in British India of the Indian Penal Code, the Nawab Sahib appointed a Committee to draft rules and regulations for the State, but this Committee could only translate a few parts of the Indian Criminal Procedure Code.

Need felt for
framing rules
and
regulations
for State
Administra-
tion

In 1284 F. (1874-75) the Nawab Sahib created a Department to draft rules and regulations for the guidance of the judiciary, and later he appointed a Committee composed of the members of the High Court and a few other Government officials for the same pur-

Appointment
of Law
Committee

pose. The circulars issued by this Committee laid the foundations of the judicial administration in the State.

In 1290 F. (1880-81) an attempt was made to enlist the services of Indians who had received their education in England, and as this did not bear fruit, a Committee was appointed in 1293 F. (1883-84) with the Chief Justice as the Chairman. This Committee drafted the Law of Limitation issued by the Council of State under the title of "Mahbubia Law," and also the well-known Circular No. 2 (Diwani) which was in force till the Act No. III of 1323 F. (1913-14) was passed.

**Appointment
of a Law
Commission**

In 1300 F. (1890-91) another Committee called the Law Commission was appointed composed of the Chief Justice and two other members of the Bench. The function of this Committee was not merely to draft new regulations and bills, but its President was required to tour the Dominions and report, in consultation with other members, on the rules relating to the working of the Judicial, Police and other departments. As owing to pressure of work, however, the Chief Justice was not in a position to go on tour, the High Court and the lower courts were requested to suggest to the Law Commission, within a period of two months, such amendments or alterations in the existing circulars or regulations, as they considered necessary. The arrangement resulted in the Secretary to the Commission preparing the marginally noted drafts; but

1. Amendment of the Law of Limitation.
2. Law relating to Wills and Inheritance.
3. Hyderabad Penal Code.
4. Rules relating to Civil Cases.
5. Hyderabad Criminal Procedure Code.
6. Rules relating to Extradition of Criminals.
7. Rules relating to Court fees.

before these could be considered, the Law Commission was abolished and in its place a Legislative Council was created.

**Creation of
Legislative
Council**

This Council was inaugurated under a Firman-e-Mubarik dated 18-4-1302 F. (20-2-1893) and although it contained no non-official element, and was composed entirely of the officers of the Judicial Department, its method of work was clearly specified. This body was empowered to call for public opinion on any matter under consideration. Part II of the Qanooncha-Mubarik of the 19th Isfandar 1302 F. (22-1-1893) lays down the procedure it was required to follow:—

**Rules of
Procedure**

"Rules for each department of State should be framed on the following plan. The head of each depart-

ment will frame rules for his department and forward them to the Judicial Secretary to the Minister. It will be the duty of the Judicial Secretary to consider them carefully and publish them in the Government Gazette with notice to all officers of the State and to the general public to express their opinions in writing and to send them to his office before the date fixed for laying these rules before the Legislative Council. Further, it is the duty of the Judicial Secretary to form a *resume* of the opinions received and to direct his Assistant in the Legislative Department to lay these papers, with a copy of the rules before the Legislative Council, which after carefully considering them, will fix a date for final decision and promulgate the same with alterations, if any, decided on. For the above purpose a Council, called the Legislative Council, will consist of the following members and hold its sittings twice a month:—

1. The Chief Justice
2. A Puisne Judge of the High Court
3. The Inspector-General of Revenue
4. The Director of Public Instruction
5. The Inspector-General of Police
6. The Financial Secretary."

In the words of the Firman "the proceedings of this Council, with the Minister's endorsement if any,..... to be sent to my Secretary to obtain my sanction. After my sanction the rules will be published in the Government Gazette."

This Council could not do much because the procedure of work that had been suggested for it needed the sanction of His Highness and because, before the necessary Arzdasht could be submitted in respect of this, a Firman dated 16th Isfandar 1303 F. (19-1-1894) was issued altering the composition of the Council and sanctioning the necessary rules and regulations. The Prime Minister became the President of the Council, and the Moinul-Moham (Assistant Minister) concerning whose department any rules might be under consideration by the Council was, for the time being, required to act as its Vice-President. The representation of officials, non-

officials, and elected and nominated members was fixed in the following proportion:—

Change in Composition of Council and Inclusion of Non-officials	(a) Ex-officio Members	..	3
	(i) Chief Justice of the High Court	1	
	(ii) Judicial Secretary	.. 1	
	(iii) Legal Adviser	.. 1	
	(b) Government Nominated Members	..	6
	(c) Elected Non-officials	..	4
	(i) Jagirdars	.. 2	
	(ii) Vakils	.. 2	
	(d) Non-official Nominated Members (to safeguard the interests of other classes of the people)	..	
			<hr/> 15 <hr/>

This Council passed an Act for the Destruction of Records, an Act to amend the Regulations of the Legislative Council, and an Act amending the Rules relating to the Civil Judges and Munsiffs of the Western Division. In addition to these the same Council considered several drafts of which the Civil Procedure Code, the Evidence Act, and the Contract Act deserve special mention.

Increase in
strength of
Council in
1309 F.
(1899-1900)

In 1309 F. (1899-1900) two more nominated members were added to the Council, and of the two non-officials whom the Prime Minister was empowered to nominate, one was assigned separately to the *Paigahs*.

In 1315 F. (1905-1906) two extraordinary members were added under Act I, and it was ordered that the "Prime Minister may appoint two extraordinary members from among the retiring non-official members or from those who may have specialized knowledge of the subject of any Bill under consideration."

In 1321 F. (1911-12) three non-official members were added for a period of six years as an experimental measure, including one from the Hyderabad Municipality and two from the Local Boards of the four Subas in rotation.

Representa-
tives of
Sarf-i-Khas,
1322 F.
(1912-1913)

The experimental period of six years had just expired when "the question of the extension of the Legislative Council cropped up, and that of the retention of the extra members had no chance of arising at all." There, how-

ever, was issued a Firman-e-Mubarik dated 10th Shaban 1331 H. (15-7-1913) to the effect that a representative from the *Sarf-i-Khas* should also be included in the Council. Soon after this, in Safar 1338 H. (1919) came the order for the appointment of the Executive Council "for the good government of the State," and in the following Jamadi-ul-Awwal (1919) through another Firman-e-Mubarik His Exalted Highness was graciously pleased to state in respect of the Legislative Council

Firman
-expansion
Legislative
Council

"This Council was one of the outstanding features of the Reforms introduced by my revered father. Since its establishment, some minor changes have been effected, but they are not sufficient to meet the requirements of present times, nor do they give promise of the fulfilment of those duties and functions which are considered necessary for the prosperity and advancement of my beloved subjects..... The next important move in the direction of reforms I have in contemplation, is a thorough and complete investigation of the conditions most favourable to the enlargement of the Legislative Council and the expansion of its usefulness as an integral part of the government machinery. I therefore direct the *Sadr-i-Azam* Sir Ali Imam, to take immediate steps to collect all necessary materials on which a liberal scheme for the attainment of the above mentioned objects may be based. It is my desire that, with due regard to the social and educational advancement made by my people, particular attention should be paid to the following points in conducting the investigation:—

- (a) Substantial introduction of the elective element.
- (b) Direct voting.
- (c) Representation of all important classes and interests.
- (d) Effective protection of minorities.
- (e) Conditions of franchise.
- (f) The official element.
- (g) Powers and functions.

The Sadr-i-Azam is authorized to appoint special officers and constitute committees on whose reports a comprehensive scheme with definite proposals shall be drawn up for presentation to my Executive Council for opinion, prior to its submission to me for consideration and order."

Report of the
late
Rai Balmukund
1331 F.
(1921-22)

In pursuance of the above Firman-e-Mubarik, the late Rai Balmukund was appointed on 22nd Farwardi 1329 F. (24-2-1920) to collect material relating to the question of the extension of the Legislative Council. The Rai Sahib submitted a detailed report on the 1st Azur 1331 F. (6-9-1921).

Appointment
of Committee
of Executive
Council to
consider the
Report
1333 F.
(1923-24)

After a careful consideration of this report and the material submitted along with it, the President of the Executive Council, Nawab Moidul-Mulk Sir Ali Imam, wrote a comprehensive note throwing light on the different aspects of the question, and proposed the establishment of a bicameral legislature. But before his proposal could be considered, he retired from service.

After this, it appears that "an Arzdasht dated 21st Rajab 1342 H. (27-2-1924) was submitted praying for the appointment of a committee to consider the question of the extension of the Legislative Council, and a Firman-e-Mubarik dated 24th Rajab 1342 H. (1-3-1924) was issued appointing a committee with the instruction that its report should be placed before His Exalted Highness along with the opinion of the Executive Council thereon." This committee

1. Nawab Tilawat Jung Bahadur.
2. Nawab Nizamat Jung Bahadur.
3. Nawab Hydar Nawaz Jung Bahadur.
4. Raja Bahadur Krishnamachari.

which consisted of the members noted in the margin submitted its report which was not unanimous.

Subsequent to this, the Legislative Secretary submitted Guzarish No. 7 dated 14th Dai 1334 F. (18-11-1924) stating that "in obedience to the order given to me in person at a meeting of the Executive Council, a note is submitted herewith explaining the several matters concerning the expansion of the Legislative Council, as need final consideration."

On the 10th Ardibehisht 1334 F. (14-3-1925) the Executive Council by a majority resolved that the Council

"agrees with the opinion of the Committee as amended in his note attached to it by Nawab Nizam Jung Bahadur, and that a draft Arzdasht be placed before the Council."

The Arzdasht having gone up, the Legislative Secretary through his Guzarish No. 29 dated 11th Mehir 1334 (17-8-1925) submitted that "the Firman-e-Mubarik dated 12th Moharrum 1344 H. (3-8-1925) had ordered that the report of the Special Committee be carefully considered by the Executive Council and an amended draft be submitted," and said "I submit herewith the draft prepared in accordance with the recommendations of the Special Committee, together with a comparative statement of the present and proposed regulations. The decision of the Executive Council in the matter will be submitted to His Exalted Highness."

* This was circulated among the members of the Executive Council; and at its meeting held on 25th Sherawar 1336 F. (1-8-1927) it was resolved that "the draft regulations of the Legislative Council submitted by the Legislative Department be referred to a Sub-Committee consisting of

A sub-Committee of the Executive Council formed 1336 F. (1926-27)

1. Lt.-Col. Chenevix Trench.
2. Nawab Nizam Jung Bahadur.
3. Nawab Aqeel Jung Bahadur.
4. Nawab Sir Amin Jung Bahadur.
5. Nawab Hydar Nawaz Jung Bahadur.

with the request that it should after the necessary modifications be placed before the Executive Council with all possible expedition."

The question could not be proceeded with for a time in view of the pre-occupations of the members of the Executive Council at the Round Table Conferences and their other engagements; but at a meeting held on 18th Bahman 1343 F. (21-12-1933) the Council resolved that "the Secretary of the Executive Council and the Secretary of the Legislative Department should place before the Council a note showing at what stage the question of the expansion of the Legislative Council stood." On the submission of this note the Council decided on 26th Khurdad 1344 F. (1-5-1935) that "the Secretary of the Executive Council should, in consultation with the Legal Adviser, submit a memorandum detailing all the matters

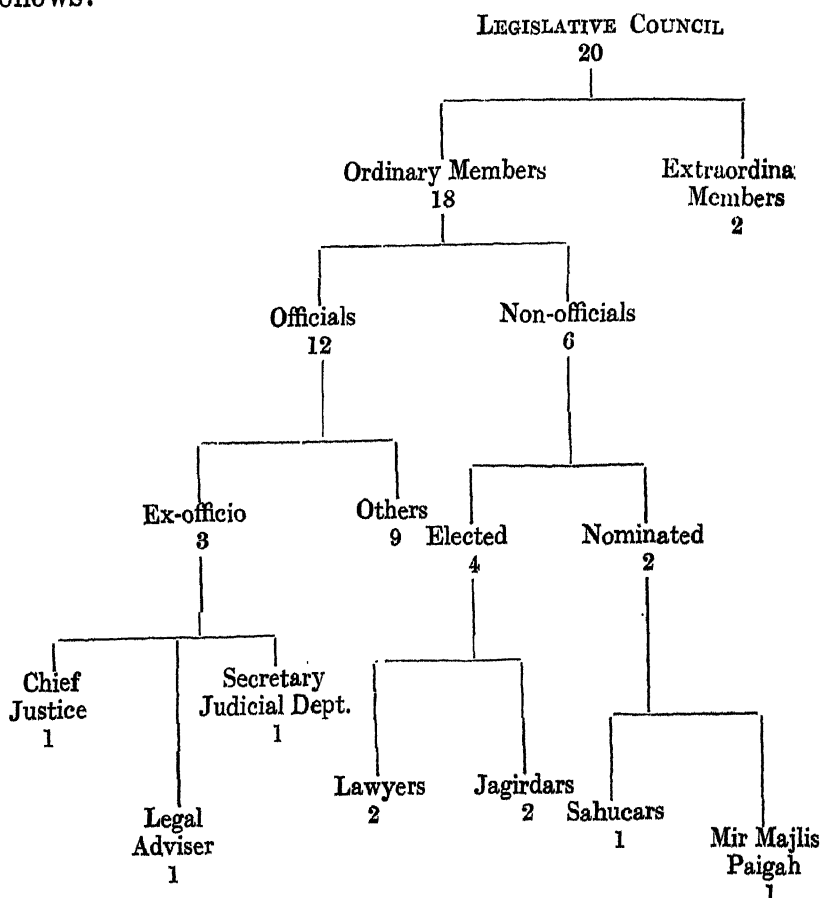
Joint Note of the Secretary, Executive Council and the Legislative Secretary 1341 F. (1931-32)

that needed final consideration." After this on 15th Sherawar 1344 F. (22-7-1935) it was decided that the question be referred to the Political Secretariat for the consideration of the External Relations Committee.

On the recommendation of the External Relations Committee, the matter was entrusted to this Committee in terms mentioned on page 2 of the Introduction.

The present
Legislative
Council;
proposals
relating to
its composition

The present Legislative Council was established under Act No. III of 1309 F. (1899) but changes have been introduced in its composition in accordance with the Act VIII of 1309 F. (1899) and Act I of 1315 F. (1905) referred to above; and the present structure is as follows:—

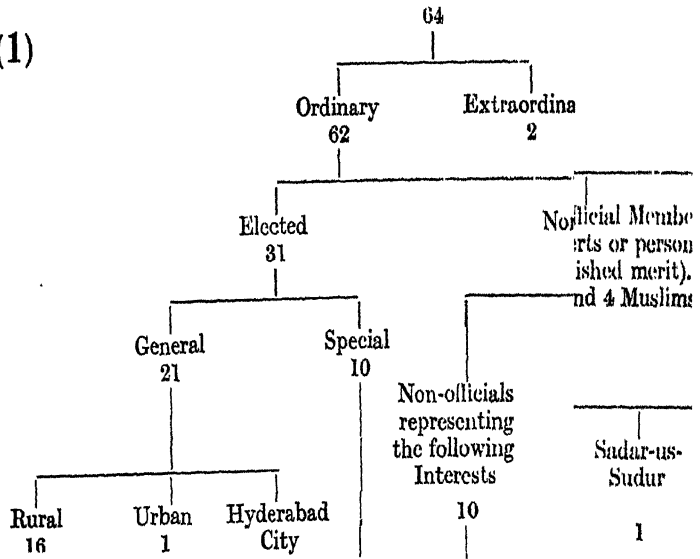


The President of the Executive Council is ex-officio President of the Legislative Council.

A list of the various bills passed by the Legislative Council since its inception up to 1346 F. is given in Appendix No. I.

(1)

The present
Legislative
Council;
proposals
relating to
its composition



SECTION III.

- (i) Previous proposals and methods of election.
- (ii) Different interests, methods of their representation, and proposed structure.

The proposals submitted on previous occasions by the late Rai Balmukund, the late Nawab Mohidul Mulk (Sir Ali Imam), the Executive Council and Mr. Kashi-nath Rao Vaidya (who is a non-official member of this Committee also) are given in a statement appended herewith.

Both the proposals of the time of Sir Ali Imam Nos. 3 and 4, recommend a bicameral legislature. Whether a legislature should be bicameral or unicameral depends on circumstances. In a federal constitution, the nature of the problems to be considered and the large volume of work to be turned out demand a bicameral legislature; and where it is a popular government, it is expected that the upper house should serve as a check on any impatient democratic tendencies of the lower house. Sometimes the extent of the country, its population and its historic and social traditions warrant a bicameral legislature; and if anything is left out in any proposals emanating from the lower house or is defective, it may be restored or rectified in the upper house.

Bicameral or
Unicameral
Legislature
depends on
circumstances

Merits and
demerits

In a bicameral legislature, parallel consideration in two houses very often results in overlapping and delay. Besides, where acute differences of opinion arise between the two houses, the resultant deadlock interferes with the smooth working of the governmental machinery. Not only this, a bicameral system casts society into a stereotyped mould and often retards the evolution of a common national outlook.

In 1923 the Reforms Committee of Mysore, in preferring a unicameral system, referred to certain factors in Mysore which justified their choice. They felt that the population was not markedly heterogeneous; the social life was comparatively simple, and society itself was not strikingly stratified; and they had no problem of big girdars or zamindars in that State.

Hyderabad
and
Bicameral
* Legislature

The position of Hyderabad is however vastly different from any other Indian State. Even without including Berar, the Diwani *Ilaqa* consists of 58.50 per cent. of the total area and the rest 41.50 per cent. consists of *Sarf-i-Khas*, *Paigahs*, *Samasthans*, *Jagirs*, and *Inams*. The historic and social traditions of the different groups and sections of the population also are divergent; and society itself is clearly stratified. So it is not surprising that seventeen years ago a bicameral legislature should have been suggested for Hyderabad. Indeed Hyderabad is the only Indian State where a bicameral legislature might appropriately and with full force be demanded.

Tendencies
of the time
and the
Nobility

Conditions, however, have changed considerably since then. The aristocracy and the jagirdars have begun to understand the tendencies of the times. Their outlook is being changed and they are gradually realizing the importance of representative institutions. Their representatives who are returned to the Legislative Council and the Municipal Corporation take an appreciable interest in matters which come up before the two bodies on whose deliberations, they realize, rests the peace and prosperity of the country. They moreover find here opportunities to work with the leaders of other classes of society and, what is of special significance to the aristocracy, to train themselves for places of trust and responsibility in the State administration. They probably know how zamindars have fared in the last general elections in British India, how the position of the Permanent Settlement in Bengal is being shaken, what the Kisan Sabhas and Sangatans are doing in Bihar and the United Provinces and whither now the centre of political gravity is gradually shifting?

Changes in
British
India, etc.

Separate
House for
Aristocracy
not
desirable

Having regard to all these considerations, the formation of a separate house for the nobility will not only be injurious to national interests, but will also prove harmful to the nobility themselves. Their primary need is that they should study carefully the changing conditions and circumstances and adapt themselves to them. It is only in this way that they can, while maintaining their dignity, serve the interests of the State, even as it has hitherto been their special distinction. The Observa-

tions, given in the footnote below,* which the Governor of Bihar had to make last January while speaking of the zamindars, may be borne in mind by our nobility in the State.

One of the two proposals (No. 2) of the late Rai Balmukund, that, wherein he suggests the establishment of a larger single house, provides for the reservation of communal seats, even as was suggested for a bicameral legislature. Says he in paragraphs 140 and 141 of his report:—

“The Muslim community is comparatively smaller than the Hindu; but there is no denying that it is a very

* “Most of the people will realize that if the landholders of the province adapt themselves *to the changed conditions*..... and I for one feel sure that they will be able and willing to do so.....they can still play a great part in the administration of this country..... When the first Reform Bill was passed and when further extensions of franchise were made, landed magnates in Great Britain, no doubt, felt that their power and influence had been destroyed. But were their gloomy anticipations realized? I think not, for the landed gentry in England still play a prominent part in the administration of their own country, and, indeed of the British Empire.

I feel that the same will happen here and that in the years to come the landholders.....will play a very prominent part in the uplift and progress of their motherland. Their influence in politics will be for the good of India.

There are some who seem to think that unless radical and drastic changes are made in the immediate future no progress can be made. The landholders in this and other provinces will be able to curb those who prefer revolution to evolution, and ensure that this great country of India will progress steadily and surely.

I am glad to learn that you have taken measures to *improve the condition of your tenants*, and that...you will inform them of the practical steps which you propose to take to that end. I note in particular that you hope to be able to take steps to *improve the irrigation of your estate*. I feel sure that if you *personally look into all these matters and do not leave the administration of your estate merely to your subordinates and servants*, you will be able to find an equitable solution of the problems that have arisen, and that you and other landholders will continue to have the most friendly relations with your tenants.

If such *friendly relations exist* we may be confident of an era of peace and prosperity for the province.”

important community. The two communities together form the majority of the population of this State and practically compose the entire society. Till now no special electorate on a communal basis has been formed in connection with the Legislative Council. The question before the Government of India and the Secretary of State at the time of the last reforms was whether special electorates for particular communities should be maintained. Be it stated, that the system of separate electorates was in force even before the new reforms. Paras. 228 to 230 of the Joint Report very lucidly deal with this aspect of the question, and reveal a deep insight into its pros and cons; and may therefore be profitably quoted in extenso."

Joint Report—
(Montagu-
Chelmsford);
and
Communal
Representa-
tion

228. "Some persons hold that for a people, such as they deem those of India to be, so divided by race, religion and caste as to be unable to consider the interests of any but their own section, a system of communal and class representation is not merely inevitable, but is actually the best. They maintain that it evokes and applies the principle of democracy over the widest range over which it is actually alive at all, by appealing to the instincts which are strongest; and that we must hope to develop the finer, which are also at present the weaker, instincts by using the forces that really count. According to this theory communal representation is an inevitable, and even a healthy, stage in the development of a non-political people. We find indeed that those who take this view are prepared to apply their principles on a scale previously unknown, and to devise elaborate systems of class or religious electorates into which all possible interests will be deftly fitted. But when we consider what responsible government implies, and how it was developed in the world, we cannot take this view. We find it in its earliest beginnings resting on an effective sense of the common interests, a bond compounded of community of race, religion and language. In the earlier form which it assumed in Europe it appeared only when the territorial principle had vanquished the tribal principle and blood and religion had ceased to assert a rival claim with the State to a citizen's allegiance; and throughout its development in the Western countries, even in cases where special reasons to the contrary were present, it has rested consistently on the

same root principle. The solitary examples that we can discover of the opposing principle are those of Austria, a few of the smaller German States, and Cyprus. It is hardly necessary to explain why we dismiss these as irrelevant or unconvincing. We conclude unhesitatingly that the history of self-government among the nations who developed it, and spread it through the world, is decisively against the admission by the State of any divided allegiance; against the State's arranging its members in any way which encourages them to think of themselves primarily as citizens of any smaller unit than itself.

229. Indian lovers of their country would be the first to admit that India generally has not yet acquired the citizen spirit, and if we are really to lead her to self-government we must do all that we possibly can to call it forth in her people. Division by creeds and classes means the creation of political camps organised against each other, and teaches men to think as partisans and not as citizens; and it is difficult to see how the change from this system to national representation is ever to occur. The British Government is often accused of dividing men in order to govern them. But if it unnecessarily divides them at the very moment when it professes to start them on the road to governing themselves it will find it difficult to meet the charge of being hypocritical or short-sighted.

230. There is another important point. A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security; it is under no inducement to educate and qualify itself to make good the ground which it has lost, compared with the stronger majority. On the other hand, the latter will be tempted to feel that they have done all they need do for their weaker fellow-countrymen, and that they are free to use their power for their own purposes. The give-and-take which is the essence of political life is lacking. There is no inducement to the one side to forbear, or to the other to exert itself. The communal system stereotypes existing relations."

The Joint Report goes on to discuss the special position the Indian Musalmans occupy in the country.

231. "We regard any system of communal electorates, therefore, as a very serious hindrance to the development of the self-government principle. The evils of any extension of the system are plain. Already communal representation has been actually proposed for the benefit of a majority community in Madras. At the same time we must face the hard facts. The Muhammadans were given special representation with separate electorates in 1909. The Hindus' acquiescence is embodied in the present agreement between the political leaders of the two communities. The Muhammadans regard these as settled facts, and any attempt to go back on them would rouse a storm of bitter protest and put a severe strain on the loyalty of a community which has behaved with conspicuous loyalty during a period of very great difficulty, and which we know to be feeling no small anxiety for its own welfare under a system of popular government. The Muhammadans regard separate representation and communal electorates as their only adequate safeguard. But apart from a pledge which we must honour until we are released from it, we are bound to see that the community secures proper representation in the new councils. How can we say to them that we regard the decision of 1909 as mistaken, that its retention is incompatible with progress towards responsible government, that its reversal will eventually be to their benefit; and that for these reasons we have decided to go back on it? Much as we regret the necessity, we are convinced that so far as the Muhammadans at all events are concerned the present system must be maintained until conditions alter, even at the price of slower progress towards the realization of a common citizenship. But we can see no reason to set up communal representation for Muhammadans in any province where they form a majority of the voters."

Communal
Representation
in
British India

"It will appear from the above extracts," continues Rai Balmukund, "that the views of the Viceroy and the Secretary of State for India were wholly opposed to the idea of communal representation and that it was only in view of the special circumstances of the Musalmans, that they were obliged to allow separate representation to them. It was in this way that provision for special electorates was made for the Musalmans in the different provinces, as well as, in the Imperial Legislative Council.

There can be no doubt that of the several reasons which necessitated the formation of separate electorates, one was this, that there existed already such electorates in British India. Here it is not so. The relations which subsist between the Hindus and Musalmans are such that no special electorates on a communal basis are necessary. But there is however, no doubt that the Musalmans here will desire that they should be given an adequate weightage in representation."

"It is apparent that the matters that come up before the Legislative Councils have little communal significance. They are concerned with administrative and such other important matters as concern the entire body of the people and involve the progress and prosperity equally of every section. So all wranglings over the proportion of representation between the different classes should be attributed to mere short-sightedness. It is a matter of thankfulness to God that great cordiality exists in these Dominions between the two communities and it can hardly be feared that it will ever diminish. In these circumstances, it should matter little whether the Hindus are given a few seats over and above their proportion in the population, or the Musalmans. And it is obvious that where the Hindus form a majority, any weightage that might be given to any section could only be to the Musalmans. When in British India, the Hindus themselves, as has been pointed out already, have willingly allowed to the Musalmans more seats than warranted by their numerical strength, it follows that the Hindus of our Dominions will in this respect not lag behind their brethren in British India. We can never lose sight of the fact that the Hindus and Musalmans of our State are its two eyes; and that every one will have to recognize that from the very position the Musalmans occupy here, their contribution to the political and moral strength of the State has never been less than that of the Hindus."

"At this stage, it will not be out of place, if it is shown how the Hindus and Musalmans in British India have jointly solved this difficult and complicated problem. It is a fact of history that for a long time, there was a difference of opinion as to whether the Musalmans in each Province should have their representation in proportion to their numerical strength or whether they

should have any weightage; but when the educated representatives of the two communities had an opportunity to work together in the Legislative Council, they came to a settlement, and their great organizations (the Congress and the Muslim League) by mutual consent fixed a proportion for Musalmans in the different provinces, with the result that the grievances of the Musalmans were entirely removed and the two communities began to work whole-heartedly together in all political and other national activities."

"Below is given a statement showing the proportion of Musalmans in the different provinces of British India to the total population, the percentage of seats allotted to the Musalmans as the result of the Hindu-Muslim agreement, and the percentage they should have secured on the strength of their numbers.

Province	Percentage of Musalmans in total population	Percentage of representation allowed under the Congress-League agreement	Percentage of Column 3 on Col. 2
1	2	3	4
Bengal	52.6	40.0	76
Bihar & Orissa ..	10.5	25.0	238
Bombay	20.4	33.3	163
Central Provinces ..	4.3	15.0	349
Madras	6.5	15.0	231
Punjab	54.8	50.0	91
United Provinces ..	14.0	30.0	214

"It will be apparent from this that excepting the two provinces where the Musalmans were in numerical majority, they were given weightage in every other province, in view of their importance."

The above extracts clearly point to the considerations underlying the Montagu-Chelmsford Reforms. Subsequent to those reforms, various commissions, conferences and committees have given their thought to this question and also the Congress, the Muslim League and the Hindu Maha Sabha have been seriously engaged in finding a solution, but so far no satisfactory settlement has been effected. The signs and portents of the time are indeed very disconcerting.

The proposals that have been put forward by the public cover all possible shades of opinion.*

Differences
in the
demands
made by
the Public

(1) Some are of opinion that the elective system is a great evil, and safety lies in avoiding it. Instead, it is suggested that an Advisory Committee composed of official and nominated non-official members may be appointed to help each Sadar-ul-Moham or Minister and that in this way, not only the country will be saved from the pitfalls of the elective system of representation but also the co-operation of the people will be adequately secured.

(2) Some are of opinion that the country should be divided into territorial electorates, that such electorates should be formed on as broad a franchise as possible, that each community should have seats allotted to them in proportion to their numerical strength, that the electorates should be joint or mixed, that the Executive should be responsible to the Legislature, and that the legislature should have the right to elect at least a majority of members to the Executive Council, if it were not feasible at the present moment to elect the entire ministry. Those who make such proposals are of opinion that the provision of safeguards for any section will be injurious to the national interests and should be avoided.

(3) Between these two extremes, there are the views expressed by the Lingayats, the Adi-Hindus and other communal minorities who are not content with mere weightage in their representation but consider also that where the majority is too overwhelming, a joint electorate will be a source of danger to their very existence, and consequently they look upon every flamboyant

* For details see Part III of the Report and the tables given at the beginning of Appendix No. III.

proposal put forward by the majority community, as but a 'sublime artifice,' to keep the minorities in subjection.

From the above views studied alongside of the conditions obtaining in other Indian States, it will be seen that electorates everywhere in India are formed on communal as well as territorial lines; and in fact the proposals that have been received from the public even here practically recommend a like arrangement.

Differences
of Language,
Race and
Religion, and
the
Body-Politic

In India the differences of language, race and religion have assumed the character of disruptive forces, although they should not have been allowed to play that role. Welsh and English are two different languages, but between Wales and England there has been for centuries quite an enviable political unity in existence. In Russia, the fact that a number of languages are spoken does not materially affect the solidarity of the body-politic. Similarly in Switzerland, several languages are in use, but no other country is able to afford a better example of political cohesion among its peoples. As against this, France and Belgium enjoy practically a linguistic unity but politically they live apart. Likewise Sweden and Norway are of the same race but would not discard their separate political individualities. Germany and Austria ethnologically and linguistically are not separate races, but their political union would not have been possible had not external influences come to the aid of Herr Hitler.

The same is true of religion. It is a matter of individual conscience and morality. Whatever its complexion, it does not teach ill-will against one another. It is intended to enjoin love and justice and tolerance based on truth. If under any new orientation, religion is synonymous with culture, it will be difficult to suggest that there is any culture or for the matter of that, any language which has not received the impact of another or will remain unaffected in future. If religion, language, and race are really the factors which constitute unity, it should be a matter for serious thought why people of the same family should often be found divided against themselves.

Co-operation

Having regard to these considerations, the only conclusion that may be drawn is this that in no society can religion or race or language by itself serve as a

necessary factor of unity, and that the factor that should really count is the desire for unity. When such a desire is weakened, no unity can be established in spite of everything else.

The question why India, the home for centuries of unity is now filled with internecine trouble has engaged the serious consideration of every earnest mind. One view is that the children of the soil have forgotten the truth that they are the "limbs of each other" and have lost sight of the common soul that dwells in them, and that so long as they do not change their attitude towards life, and view its problems from the human standpoint, their troubles will continue to multiply.

Students of political economy are however of opinion that at the bottom of every political difference, economic forces are at work, and that the common people have not the ability to create harmony between them. It is therefore held that if economic reconstruction is effected alongside of the spread of education, neither ignorance and poverty will prevail nor will mischief and trouble have free play in the country.

In political circles it is generally held that *under Indian conditions*, territorial constituencies are responsible for communal tension everywhere. Dr. Brajandar Nath Seal and his learned colleagues of the Mysore Reforms Committee in incidentally endorsing such a view hold the opinion that for the sake of minimising communal tension, it might be worth-while to emphasise the importance of "Facultative Representation."*

Drawbacks
of territorial
and communal
constituencies

* "But the greatest advantage of such a composition of the Legislature is that it is bound to work for the softening of differences—even communal differences such as we have in India. And this will tend to counteract the operation of those disruptive forces which the recognition of hereditary distinctions and inequalities, or of ethnic or religious cleavages, as such, in the constitution of a law-making body, might help to crystallize or even to accentuate. For the minorities have functions and interests which will not necessarily depend on their numbers, and so far as rigid communal barriers in the matter of vocations and functions are breaking down, and a free interchange and inter-flow (or what is called a sliding scale) are being established in society at large, the representation of interests and functions on a non-communal and non-ethnic basis will be an influence for unification and concord."

Indian
conditions
and
economic
reconstruction
through
functional
representation

Looking into these considerations in a realistic manner, we have set the question to ourselves why the worn-out method of territorial representation should not be set aside, and facilities for co-operation and for the evolution of a sound economic order should not be sought through a system of representation by interests; and why an attempt should not be made to turn the mind of our country away from those paths which have become the haunts of disturbing elements all over the country.

Mr. Vaidya's
dissent

We regret that one of our colleagues, Mr. Vaidya, does not share this view.* He advocates the adoption of the territorial system of representation, and out of regard for what he considers "national interests" is opposed to reservations or safeguards on communal lines and he does not agree that, as against this system of representation, the principle of representation by interests should be adopted. His argument may be stated as follows:—

Mr. Vaidya's
views

(1) The system of representation by interests strikes at the root of representative government and denies one the exercise of that precious privilege whereby every good citizen consents in the larger interests of the country, to forego every attachment that he may have for any particular class or creed or profession.

(2) A Legislature elected on the basis of interests will prove to be no better than a mere debating society; and its usefulness will diminish as the number rises of the interests it represents.

* At the meeting of the Committee held on the 12th Mehir 1347 F. (18-8-1938) Mr. Vaidya presented to the Chairman at about 6-30 in the evening, a note in English expressing his views against the system of Functional Representation recommended by the Committee. The note has not been included in the report but, as agreed to by him, only his points of difference, have been brought out.

A few days after this (at about 3 p.m.), on the 18th Mehir 1347 F. (24-8-1938), Mr. Akbar Ali Khan presented to the Committee a note in Urdu which as desired by him is reproduced below in its English rendering.

"I regret that the note of dissent which my friend Mr. Kashinath Rao Vaidya has chosen to submit has obliged me to make the following observations:—

The deliberations of our Committee have all along, rested on the idea of functional representation and not on that of territorial representation. Mr. Vaidya took throughout a very keen

(3) The system of representation by interests will accentuate the separatist tendencies already in existence and may possibly stimulate class legislation.

(4) The adoption of the functional system will reduce the possibility of returning to the Legislature persons endowed with vision and broad-mindedness and also the talent to hold the scales evenly between divergent views and interests.

(5) The system of representation by interests will result in over-representation for tiny minorities, and its very complexity will practically thwart its successful working.

(6) The adoption of the system will create unwieldy constituencies and involve the candidates in heavy expense. Besides, the voting will be indirect.

and active part in our proceedings giving us the impression that he was not opposed to the system of representation by interests. But when the Committee had finished its work and all the details had been threshed out and settled, Mr. Vaidya pressed his views which, on a previous occasion, he had expressed only in passing. This has caused us no small concern, as otherwise our report would have been unanimous.

When at first I agreed to the system of representation by interests, I knew that I was throwing the interests of an important minority into serious jeopardy, because, however much functional representation may be non-communal in character, there is always the fear that the majority community will take rather an undue advantage of it. But trusting that the moral weight of our common culture and our common nationality will ultimately prevail, and prevent all those unpleasant forces which have vitiated the political atmosphere of British India from raising their heads here, I was even prepared to face the risks inherent in the functional system without insisting on any reservation of seats or safeguards for the minority community.

Now that Mr. Vaidya insists that representation should be territorial, I should like to make it clear that, should that be the case, it would become imperative for me to press the claims for safeguards of the most important minority in the State.

I submit that it will be the height of folly to disregard or forget the history and traditions of a country when its constitution is in the making. A minority which has made an indelible impress of tolerance and justice on the history of the Deccan, and which has laid the foundation of a common nationality and a common culture for its people will never be prepared to sacrifice its influence and power under any constitution merely because it happens to be in the minority. It was in view of this

(7) The system of territorial election is in vogue almost everywhere, barring a few solitary exceptions; and constituted as we are, the system of government which obtains in countries where territorial electorates do not exist, can hardly serve as an example for us to copy. It is not proper to suggest that territorial representation will promote communal rancour or bitterness, as the one has no logical connection with the other. On the other hand, such rancour is the result of the electors' mentality. And indeed, there is nothing sacrosanct about the system of functional representation which can keep communal rancour at a distance. Further, even under the system of territorial elections, there is the possibility of reserving seats for special interests.

Committee's
Observations
on
Mr. Vaidya's
views

Mr. Vaidya, probably for the sake of brevity, has given just the bare result of his thinking, and we have not been allowed any inkling into its process whereby he reaches his conclusions. We shall therefore rest content with but a running comment on what he has suggested:—

(1) If it is the view of Mr. Vaidya that the system of representation by interests destroys altogether the territorial sense or parochial consciousness among the electors, we are afraid, he takes up an untenable position. The geographical sense is always there whether the system is that of territorial or functional representation. The only difference is this: that under

historic consideration that the late Rai Balmukund Sahib, a worthy son of the soil, had recommended in his report a 50 per cent. representation for Muslims on the Legislature.

This allotment may not be regarded as unjustifiable on the ground that the interests of the different classes and communities in Hyderabad are identical, and every member of a class or community can fulfil his duty to the State with the same integrity and sense of responsibility as any other. But, as at the present day, mutual confidence is unfortunately on the wane, it is imperative that equal representation should be granted to the two communities so that the necessary confidence may thereby be restored.

I do not think it necessary to urge further reasons in support of this view, but shall express here my considered opinion that, while affording equal representation to the two communities, the other minorities, the Christians, Parsis and others, should be given a position such as may enable them, whenever necessary, to serve as a check on either community.

the system of territorial representation, the country is divided into numerous territorial constituencies. As against this, under the system of representation by interests, the whole country is very often constituted into a composite geographical unit. Indeed, in special circumstances, certain large interests have got to be distributed over several territorial units. It is therefore a matter of fundamental concern which of the two systems, is more natural or which is more artificial, and also, which of the two has the inherent power to create a country-wide outlook or a common State consciousness.

(2) It has not been made clear at all by Mr. Vaidya how functional representation is diametrically opposed to the principle of representative government. And if one's association with a specific economic interest could induce one to connive at the sacrifice of the general interests of the country, it may be asked what is there in one's attachment to a particular territorial unit which precludes the possibility of disregarding the interests of the entire country in preference to the interests of one's own parochial constituency.

There was also this initial understanding among the members of the Committee that the Legislature should be unicameral, as that would conduce to concentration of energy at a single place. This is not a disagreeable proposition, if the functional method of representation is to be adopted. But, if representation is to be territorial, I should recommend the establishment of a bicameral legislature so that the weaknesses incidental to elections under such a system may be neutralized.

Historically and by tradition, the nobility—the heads of Samasthans and the Jagirdars—occupy a very important place in our society. This class is entirely free from communal bias, and is sincerely devoted to the King and the country. It is the hereditary flag-bearer of our common nationality, and a third of the territory of our Dominions is under its direct influence. Keeping these realities in view, I have to recommend very strongly that in both the houses, it should have a representation which should secure to it two-thirds of the seats in the Upper and one-third in the Lower House.

I am fully convinced that with these safeguards provided therein, any constitution that may be established here will, through Divine grace, assure to all classes and communities, under the beneficent aegis of our august master, every peace and happiness."

(3) It has been stated that functional representation would involve the candidates in heavy expense. This fear may easily be allayed by stating that the two largest interests in the country, viz., of land-holders and cultivators, are to be divided into convenient geographical units. As for other interests, financial considerations possess no importance whatsoever. Moreover, if the voting under the system of functional representation can be said to be indirect, it may with equal force be advanced that under the system of territorial representation the voting is not real or effective.

(4) It is suggested that the representatives of interests will not possess breadth of vision or that sense of perspective which enables one to introduce harmony between rival claims. As against this, may it not be said that representatives of mere territorial units, with attachment to no particular interest, may, more often than not, be mere laymen or professional leaders usually devoid of that direct knowledge and country-wide outlook so indispensable to enable one to promote lasting harmony between the different interests in the country? Moreover, it is certainly possible, without resorting to the system of territorial representation, to secure in the Legislature, persons who can exercise a steadying influence and promote the necessary adjustment between conflicting interests.

(5) It has also been stated that the system of representation by interests will result in over-representation for small minorities and create complications. It is not possible to understand why so much insistence should be laid on mere numbers as the basis of representation, or what harm would ensue if specific economic interests form the basis. The number of persons who compose a particular interest and the importance of that interest to the country are always taken into consideration to secure its effective representation on the Legislature. Besides, it goes without saying that a class or community which enjoys a numerical majority will inevitably return a majority of representatives to the legislature under any system, even the system of representation by interests.

It is therefore hardly graceful of the majority to grudge any incidental weightage to any minority. There is no place in India where under the territorial system

of representation effective safeguards have not been conceded to minorities. Indeed even outside India safeguards for minorities are being provided in the constitutions of several countries.

(6) It has also been contended that functional representation will intensify the tendency already existing of dividing the people into groups and classes. The fact is that from the standpoint of interests, the constituencies will be so wide that the question of divisions would scarcely arise. In fact, the division by interests will not be so pernicious or disruptive as the division of a people on the basis of language, religion or race. The system, in so far as it will develop a country-wide outlook, or a common State consciousness, has everything in its favour. The fear that it would stimulate class legislation is groundless, as that would not be possible, unless any particular class when legislating in its own favour succeeds in turning out the representatives of all other classes, or its numerical strength is so overwhelming as to render ineffective the combined forces of other classes or interests aided by the official bloc. Under functional representation, there will be, speaking comparatively, little possibility of any such result.

(7) Mr. Vaidya has suggested that under a system of territorial representation it should be possible to provide separately for specific interests. In other words, he admits that even under the system he advocates, it will not be possible to secure just or equitable representation for all interests. As against this, under the functional system, representation for each interest is automatically secured. It is really difficult therefore to understand why instead of adopting the principle recommended, recourse should be had to a dual or mixed system inevitably involving complications.

(8) If it could be urged that the territorial system should be adopted here simply for the reason that it is followed everywhere else in India, may it not be urged with equal force that the necessary concomitants of safeguards considered so essential elsewhere, should also be provided for even here; and should any attempt be made by the majority to look upon such safeguards as inimical to the interests of nationalism, will this not be regarded by minorities as but a 'sublime artifice' to deny them their rights of honourable existence? We

may emphasize that the functional system of representation will, if it does nothing else, at least direct the energy of the people to evolve a healthy and useful economic order in the country.

Whatever view may be held in respect of the other systems, there is a recognized school of thought which maintains that on its own merits, the territorial system of election does not present an attractive ideal or programme before the country, nor by any means can it be called a scientific system of representation.

Representa-
tion of
specific
economic
and
industrial
interests

With the advance of civilization, economic interests are multiplying so rapidly and are growing so complex, that it is not possible to expect any person to possess a close and expert knowledge of all the different interests of any particular territorial unit or constituency, and to represent them adequately. If, for instance, the representation of the Subah of Aurangabad is assigned to any particular person, it will be difficult to believe that he will be able to take a comprehensive and expert view of all the economic, industrial and other interests of such a vast area. On the other hand, it is possible to expect of a banker or money-lender elected to represent the banking interest of the whole of the Dominions that he should be conversant with the details of his own interest and of the needs, susceptibilities and desires of his class, and that as a result he will prove to be their true representative.* The need for expert knowledge apart, it will be difficult to deny that a member who has a direct personal concern in the furtherance of the interest he represents, will naturally be in a position to represent it more effectively than any other.

Corporative
State:
Representa-
tion for
productive
classes on the
basis of
equality

This is the trend of modern progressive thought on which rests the theory of the Corporative State, postulating the need for promoting harmony, on the basis of equality, between the different productive classes in a

* "Rely no longer upon politicians, who do not understand anything of your profession, and whose qualities you cannot even know, but form of your own branch an association, and put at its head the most eminent man in your business. Then the representation of all classes is ensured, and the leaders elected from your own circles will, by constant intercourse with each other, better understand the general interest of the nation, and you,—a simple man—would sooner believe one whom you know than a stranger who proclaims one idea today and just the opposite tomorrow."

country; and there seems to be no reason why the proposed experiment* should not be given a fair trial, when unfortunately various disruptive agencies have become the necessary auxiliaries to the system of territorial representation all over India, and which luckily for us have not so far been set up in our State.

The apprehension is sometimes expressed that the system of representation for economic, industrial and other interests will affect a representative's outlook, as he might insist on the fulfilment of the interests of his own class at the expense of the general interests of the entire country, and feel no sentimental attachment for any part of the country such as a representative of a territorial unit may ordinarily do. As against this, it might be urged with full force that the system of territorial representation feeds the feeling of parochialism more than the feeling of nationalism, and that very often it weakens one's sense of loyalty to the State and its united culture. If the question of representation is one merely of attachment, it may easily be asserted that the ties of neighbourhood can seldom be so strong as the bonds of common interests.

Organization
of Economic
and Political
Life through
Societies for
different
Interests

The Chairman of the Committee wishes to point out that he does not believe there is anything in the system of territorial representation which should necessarily

* "It is impossible for any one person to represent any other person; hence all so-called representative institutions that have existed in the past are misrepresentative institutions. But although a man cannot represent his neighbours, he can represent a group of purposes which his neighbours have in common. Thus X can represent the common interests of A, B and C, who are all football players, as football players; Y can represent the common interests of A, D and E, who are builders, as builders; and Z can represent the interests of A, F and G, who are all Presbyterians, as Presbyterians; but neither X nor Y nor Z, whether taken separately or together, can be said adequately to represent all the interests of A, or in other words A himself. It follows that any kind of representation which really represents must be functional representation, and that the only bodies which are really democratic, in the sense that they express the will of those who elect them, are those which are related to the various functions which individuals perform. A democratic society will, therefore, be one which is a co-ordinated network of the functional representative bodies, each of which represents a particular set of wills or purposes which its members have in common."

tend to promote communal rancour.* But without concerning himself with the pros and cons of territorial or functional representation, he desires to make it clear that the considerations, which have weighed with him to incline in favour of representation by interests, are that it will dispense with communal representation, separate electorates and other safeguards, and that under this system no single section will be able to secure a predominant majority for itself, and that if the experiment failed, it should by no means be difficult to resort to another system.

The opinion of the Committee in short is this that functional representation will place the social order on new foundations. It will widen the outlook of the representatives of different interests, as they will look upon these interests, spread out as they are over the whole country, as something indivisible and be able to take a country-wide view of everything concerning the welfare of the State. Besides, these interests being of natural and direct concern to them, they will be in closer touch with their electorates than those returned under a territorial system. Moreover, their representation will be natural and effective, in as much as it will be pursued without being distracted by divided aims. Even Parliamentary countries have begun to realize that a strong body of experts is far more efficient than a legislature of laymen. If this is not inadmissible, the Legislature proposed by us will by no means be a Legislature of laymen or of professional politicians, but it will be an organization operating for harmony between the different classes and interests in the country. And we need hardly emphasize that the scheme is not merely sound in principle, but under our existing conditions is the only solution to the problem of our people and our country.

Traditions of
the State;
and other
circumstances

Hence it is that taking all factors into consideration, (Mr. Vaidya still adhering to his view) the Committee is of opinion that, as far as circumstances permit, the

* The official members of the Committee do not disagree with this view; but they wish to make it clear that under conditions, existing in India, and particularly in the present atmosphere here, candidates will, very often for the furtherance of their own ends, try to convert territorial constituencies into political arenas of communal rivalry.

political and economic life of the people should be consolidated through organizations devoted to the different interests in the country, and their needs ascertained from their own representatives in a manner such as may promote a "more effective association of the people with the administration." As we have already observed, the theory of the Corporative State takes cognizance only of productive activities; but we cannot accept this principle in all its bearing as we cannot overlook our traditions and customs and our history. We have to follow a line of action in keeping with the conditions of our life.

Holding the views we have just explained, we see no need to examining the several schemes put forward in the past in regard to the composition of the Legislature. We shall therefore proceed to suggest the various Interests which deserve to be recognized, and point out which of these lend themselves easily to elective representation and which may not, and what might therefore be done to provide for the latter, the representation they deserve.

So far, the legal profession has been represented on the Legislative Council by means of election. In no scheme suggested in the past, was it given any place except in the one recommended by a former Executive Council. The reason for this probably was that this profession could not on principle fit into the frame-work of those schemes. But we are of opinion that it should be given representation. There already exist here associations of practising Vakils, and they should have, under the rules to be framed, no difficulty whatsoever to elect their representatives. The members of this class are to be found here in sufficient numbers; and since we are against the inclusion of any member of the judiciary in the legislature, the need for representation on it of this class becomes all the more necessary. We shall however be justified in suggesting that the Vakils who hold permanent appointments as Government Advocates should not be entitled to stand for election.

Associations of Medical Practitioners following the Western, Unani, and Ayurvedic systems are also in existence here, and they have demanded representation. We think that they should be allowed to return their nominees to the legislature.

Education

Education is included among the liberal professions. The connection of teachers with the general educational interests of the country is so intimate that they need to be accorded definite representation; and it should not be difficult to organize an electorate for them.

**University
and
Graduates**

To secure representation for the Educational Interest, the Senate and Faculties of the Osmania University should be given the right of representation. An electorate should also be formed of graduates of the Indian and other Universities residing in the Dominions. Such an electorate should afford no difficulty in formation, as there exists already an organized association of the graduates of the Osmania University whose outlook is not communal. And it may be expected that for purposes of election, this association will enroll as members graduates of other Universities as well.

Engineering

The Engineering profession is being provided on Municipalities and Local Boards. The Legislative Council may, on special occasions, co-opt expert Engineers.

Women

Dealing with female education in India, the Auxiliary Committee of the Simon Commission makes the following observation:—

“The social position of the Indian Women needs to be strengthened; for in every country, as power passes more and more from the hands of the few into the hands of the many, more and more is the steadying influence of women needed as the guardian of family life, not only inside but outside the family circle. In all matters of educational and social reform, the counsel and active work of women are essential both in administration and in public affairs.”

The above observation holds good of Hyderabad as it does of India.

The Hyderabad Women's Conference at its session held in 1937 under the distinguished Presidentship of Princess Niloufer Farhat Begum Sahiba had adopted the following resolution:—

“Envisaging greater Hyderabad in the light of promised reforms, we, the Women of these Dominions,

solemnly adhere to our former claim to a full recognition of our civic rights,

and

demand that on the Legislative, Municipal and all other Councils, Bodies and Committees whereunto the Citizen shall reach in virtue of election, nomination or appointment, the Women of this Realm be accorded definite representation, commensurate with the progressive interests for which they stand."

We have already referred to the activities of women in Hyderabad. They have been granted franchise in the City Municipal Corporation and are taking an increasing interest in social and educational activities. In these circumstances, we welcome the demand contained in the above resolution, and think that the women here should be given representation not merely on the Legislature but, as far as circumstances permit, on other bodies as well.

In respect of the representation of this class, we hold that it should be effected only through its own organization. The present Women's Association is affiliated to the All-India Women's Association for Educational and Social Advancement. Its branches are working in our Districts; and it is free from those weaknesses which generally beset public bodies in India. The membership fee of this Association is Rs. 3, and for those who seek admission through other organizations it is Re. 1 per year. Thus every facility has been given for the admission of women to this Association, which for that reason may well form the central electorate for them.

A demand has been made on behalf of Harijans that seats should be reserved and separate electorates formed for them. We cannot endorse the principle which generally underlies communal representation. But in the social, educational and economic interests of the Harijans, we nevertheless consider it necessary that they should be granted representation in the Legislature. An association of Harijans is already in existence; and under the rules of election to be framed, this body may constitute into an electorate for them.

In addition to the Harijans, there are other depressed classes, but they are not sufficiently advanced to organize

themselves and elect their own representatives. Till this is possible, it will be necessary for the Government to nominate representatives for them.

Labour

In the Dominions of Hyderabad we have a very large population of agricultural and non-agricultural labourers; but excluding the Railway Workers' Union, they have no organization of their own. The Railway Union has asked for representation; but the members of this Union mostly live outside the State jurisdiction and are all employees of the State. Their Union will therefore not be entitled to any representation. We therefore think that until the general labouring classes organize themselves into associations of their own, Government will have to secure their representation only by means of nomination.

Municipalities

The importance of Municipal representation on the Legislature needs no emphasis. On the one hand, it will bring under review the work of Municipalities, and on the other will help the Legislature to consider practical measures for their efficient administration. The Municipalities of Hyderabad and the Districts may therefore be granted representation, but it may be stipulated that only non-officials can stand for election and not the officials.

Industry

So far as organized large scale industries are concerned, their proprietors and directors may form themselves into an electorate. But for cottage and rural industries there is no other way but to fall back upon nomination.

Commerce

The Chamber of Commerce here has asked for representation. The head office of this organization is situated in Secunderabad and its transference into the jurisdiction of this State will not be difficult. In addition to this, there exists also a Trade Association. If this body cannot be amalgamated with the Chamber of Commerce, it should be possible for it to work with the Chamber jointly for purposes of election. The two together may, therefore, subject to rules, be granted the right of representation.

Sahucars and Bankers

The Sahucars Association has asked for representation but, unlike the Chamber of Commerce, it has not explained its aims and objects and furnished other

necessary particulars. In the interests of banking, we are of opinion that co-operative credit societies and joint-stock companies engaged in banking should be constituted together into an electorate. Alongside of this, another electorate for indigenous banking should also be formed.

Agriculture forms a country-wide interest, and Agriculture
37,76,076 persons including agricultural labourers are interested in it. As we have already submitted, there could be no possible representation for labourers except through nomination. This class will also benefit by the nominations provided for the Harijans and other depressed classes whose interests are allied to theirs.

Excluding the labourers, the agricultural class consists of two sections—one is that of *Pattedars*, *Shikmi-dars*, *Ijaradars*, and *Kauldars* of Jagir *Ilaqas*; the other of *Kashtkars* or *Asamikasht* who pay to *Pattedars* in cash or kind. Land-holders and Agri-culturists

In certain cases, the interest of *Pattedars* is more analogous to that of *Inamdars* and Jagirdars than of the cultivator, and they derive indirect benefit from the representation afforded to the former. But a large number of *Pattedars* are themselves cultivators. Hence, it would be desirable if two-thirds of the agricultural seats are assigned to *Pattedars* or proprietors and one-third to pure cultivators.

From the figures collected by the late Rai Balmukund in 1330 F. (1921) it is noticed that there were 76,240 *Pattedars*, *Ijaradars* and *Kauldars* who paid an annual quit-rent of over Rs. 150 each. It is possible that owing to fragmentation of holdings, this number may have gone down, but under the functional representation we have recommended, mere numbers do not determine the importance of an interest. With all that, it is hoped, their number will be sufficiently large.

The income of a *Pattedar* paying a quit-rent of Rs. 150 is estimated at Rs. 525 in Telingana, and Rs. 675 in Marathwadi; and it should be reasonable to expect that a person with this income would soon develop the capacity rightly to exercise his vote. We therefore think that the payment of a quit-rent of Rs. 150 should be a fair minimum to entitle him to franchise. But in the

case of a cultivator or *Asamikasht* a minimum of Rs. 50 should suffice. This payment of Rs. 150 or Rs. 50 may be for a single plot of land or collectively for all the plots held together by a single person.

As has been made clear already, territorial elections do not form the basis of representation under our scheme. But agricultural conditions in the different parts of the country are so diversified that to a certain extent the territorial conception needs to be followed in order that no side of this Interest might go without representation. This should necessarily increase the strength of the representatives of the agricultural interest, and counter-balance the position the other interests may hold in the Legislature.

This will not be 'Territorial Representation' in the ordinary sense of the term, but a geographical division of the Interest concerned for purposes of representation. We think it desirable that such territorial divisions may be fixed for this interest, and the method of election may be so devised as to secure one hundred representatives in the primary elections who in their turn should elect from amongst themselves the necessary number of representatives for the Legislature. We are aware that secondary elections are not generally regarded with favour, but the condition of the agricultural population is such and the practical difficulties of election are so real, that this method seems to be the only one that is feasible at the present moment. Later on, when this Interest is properly organized and associations devoted to it are formed, it should not be difficult to adopt a better method of representation.

Samasthans

We now turn to those classes who have permanent attachment with the State and the Royal House. Of these, the class which enjoys an ancient and glorious heritage is that of the heads of *Samasthans*. They may elect their representatives under the supervision of the Revenue Department.

Jagirdars

The other class is that of Jagirdars whose importance to the State needs no emphasis. Their loyalty to the Ruler and his Government, on which rests their stability, has always remained unshaken. Their forebears have rendered yeoman service both on the field of battle

and in the sphere of civil administration, and distinguished members of this class have from time to time discharged the high responsibilities of Dewanship of the State. The area of the country which is directly under their control is about 12,000 sq. miles with a population of nearly 24 lacs. We have elsewhere in this Report referred to the new awakening among them. They have already formed themselves into an association and they should be given the right of representation which they may exercise under the supervision of the Revenue Department.

The Zamindars and Inamdars come next in importance to the Jagirdars, and they number nearly 6,000. Bearing the circumstances of this class in mind, it seems desirable that a list of the '*Sahib Muntakhabs*' may be kept at the office of the District Taluqdar, and the primary election for them be so arranged that one hundred persons are chosen to meet at the office of the Revenue Secretary to elect their representatives to the Legislature. In this way every sixty members of this class may be able to return one nominee. But it may be stipulated that the candidature of any person should be announced only after the electoral college is formed, so that the members of that electorate may be free to exercise their vote without any previous binding in favour of any particular candidate. This will eliminate the possibility of any extraneous influences working in the final elections.

Of the remaining Interests, the *Sarf-i-Khas* will be represented on the Legislature by members nominated by the *Ilqa* itself. In addition to the *Sarf-i-Khas*, the *Paigahs* and the Estates of the *Peshkar* and Nawab Salar Jung already enjoy representation on the Hyderabad Municipal Corporation. They should be given representation on the Legislative Council also, and if the Amirs of these Estates do not see their way to attend the meetings of the Legislature in person, it should be made a condition that they should depute or nominate some members of their own family as their representatives, and not any officials of their Estates.

The importance of the different Interests and the number of seats to be assigned to each have formed the subject of special and prolonged consideration, and

before deciding upon a definite plan we have had to prepare several alternative schemes in respect of the composition of the Legislature, a few of which may be found in the minutes of our proceedings.

Proportional
representation;
Single
Transferable
Vote

The Chairman of the Committee gave very close attention to the question why we should not submit our recommendations on the principle of proportional representation for the different Interests and also assure ourselves that every Interest has been treated with the utmost fairness by coupling it with the principle of the Single Transferable Vote. From what different angles the Chairman approached this question may be seen from the Statements which are given in Appendix I, pp. 92-95.

Difficulties in
adopting the
above system

Apart from the fact that the nature of our enquiry does not call for recommendations merely on the basis of numbers, we realise that it is by no means easy to adopt the system suggested above as may be evident from a perusal of the statements prepared by the Chairman himself.

To our knowledge, wherever the system of proportional representation is in vogue, constituencies have been formed on territorial lines. In fact the method has been adopted, to avoid the defects of territorial representation; and so, it is problematic whether the method is necessary and will work well when applied to functional elections. Besides, the method of proportional representation involves the formation of multi-member constituencies and will prove too complicated and difficult under our conditions. It may also very likely excite the communal spirit in sections composing each Interest. Moreover, the method of the Single Transferable Vote argues the provision of plurality of seats for every Interest, which will not be possible here without rendering the Legislature unwieldy.

Associations
and framing
of election
rules

Taking everything into consideration the Committee, *including the Chairman*, is of opinion that it will not be desirable to insist on the adoption of the above system. But the Committee is in entire agreement with the Chairman that however simple the method of representation through associations of Interests may seem to be, it

is not altogether free from practical difficulties. It is therefore necessary that specific and detailed rules should be framed with great care and circumspection, and the franchise should be made sufficiently wide so as not to allow of the formation of parties or cliques, or deprive any section of the privilege of franchise. It is hardly necessary to add that these rules will cover the usual disabilities relating to voters and candidates for election.

An important section of Legislature consists of the nominated element. *Every* proposal that we have received recommends, in view of our special conditions, that our Legislature should contain a nominated element also. The learned framers of the report on the Constitutional Reforms in Mysore, while dealing with the theoretical and practical aspects of nomination express:—

Government
Nominations

“Whenever the Legislature in one or both of the Houses, contains a nominated element, not only the Cabinet Ministers are members *ex-officio* but also a certain proportion of officials are nominated. The theory is that where the ministers are the mouthpiece of the Legislature (or of the majority in the legislature) and are elected or removable, the administration of the departments is effectively under Parliamentary control, and the conformity of administration to legislature is automatically secured: the permanent officials have therefore no place in such a legislature.... Where however the ministers are irremovable by the legislature, the administration, especially its limbs and instruments, are jealously kept out, and conformity of administration to legislature is secured by an elaborate machinery of checks and sanctions..... But in the State, there is not only unity between the Head and the people—there is also unity between the Executive and the Legislative under the one Head, with assured conformity of administration to legislation; and this is secured by the limbs and instruments of the administration (forming the executive) being given an organic place and function in the legislature. This is not only logical in theory, it is also advantageous in practice in such a polity—it smooths the wheels of the machinery both of legislation and administration—and it makes for efficiency and power.”

Principle of
Nominations

The following are briefly the advantages of nomination:—

1. It provides representation for such interests as, under circumstances peculiar to them, may not lend themselves to elective representation.

2. It restores the necessary balance between the different Interests, if as a result of elections it has been disturbed in any manner.

3. It makes available the services of such non-officials of character, ability and experience as may not have the means or the inclination to contest elections.

4. It places at the disposal of the Legislature the administrative experience etc., of officials.

In view of these advantages, we are of opinion that the members of the Executive Council should be *ex-officio* members of the Legislature, and that a suitable number of officials and non-officials should also be nominated by Government; and that if the President of the Executive Council should also be the *ex-officio* President of the Legislature, the arrangement will work for that harmonious relationship "between the Executive and the Legislative" which lies at the basis of our Constitution.

We attach herewith a Statement showing the composition of the present and of the proposed Legislature.

SECTION IV

Functions and Powers

Functions and
Powers of
Legislatures
in Indian
States

The functions and powers of the Legislatures in some of the Indian States are set forth for the sake of convenience in three separate charts. From a perusal of them, it will be seen that these functions and powers are of three kinds. The first concerns legislation and connected subjects; the second, the budget; and the third, interpellations, motions and resolutions.

We may deal with them *seriatim*.

Legislation

The procedure followed in some of the Indian States in regard to legislation is this. Certain matters are kept

entirely out of the purview of the legislature, and are marked 'exceptions.' As regards other matters, it is obligatory in certain States to obtain the previous permission of Government for the introduction of legislation in every case. In other States, such permission is necessary only in specific matters.

Leaving aside the view that 'residual functions and powers' should always vest in Government, we think it desirable that while giving a list of the subjects which should be absolutely outside* the purview of the Legislature, the subjects which come within its purview should be specifically enumerated in detail. This will fully clarify the position. The Government of India Act 1935 gives three lists of legislative subjects. The first specifies the subjects for legislation by the Central Legislature; the second, the subjects in respect of which bills may be moved in the Provincial Legislatures; and the third, those which fall within the purview of the Central, as well as the Provincial Legislatures.

Detailed
enumeration
of Legislative
Subjects

A similar classification may also be made here to suit our conditions. Accordingly, one list is prepared of matters which are expressly excluded from the purview of the legislature; another of matters in respect of which the initiative rests only with Government; a third, in respect of which the members of the Legislature should have the power to introduce bills without any previous permission of the Government; and the last, of those concerning which previous permission of the Government should be necessary. This, however, does not mean that Government should have no power to introduce legislation dealing with any of the subjects contained in the last two lists. We give below the lists we have prepared on these lines.

Subjects
outside the
purview of
of the
Legislature

* The Chairman and Mr. Vaidya are of opinion that when legislative subjects are specifically enumerated, it follows that those not included among them are vested in the Government. There will then be no need to state what particular subjects are outside the purview of the legislature, as anything not included in the legislative lists should necessarily be outside its purview. The other members, however, think that even when the legislative subjects are specified and enumerated, certain matters should be expressly excluded from the purview of the legislature; and Mr. Akbar Ali Khan interprets this to mean that, in respect of subjects so excluded, even Government should not have the power to introduce any legislation without the sanction of the Ruler.

MATTERS EXPRESSLY EXCLUDED FROM THE PURVIEW OF THE LEGISLATURE

1. The Ruler and the Royal family.
2. The relations of His Exalted Highness with the Crown or any other State or Prince.
3. Treaties, agreements and conventions between the Ruler and the Crown or any other State.
4. His Exalted Highness' military and other armed forces.
5. Extradition of criminals.
6. European British subjects.
7. European vagrants.
8. State charities.
9. Currency, coinage and legal tender.
10. The Ecclesiastical Department and religious endowments.
11. The unrestricted power of the Ruler in regard to existing or future grants.
12. Provisions of the Legislative Council Act.
13. Such other matters as may from time to time be excluded by the Ruler from the purview of the Legislature.

LEGISLATIVE LISTS

LIST I

Matters on which legislation could only be introduced by Government

1. Local self-government in State cantonment areas, the regulation of house accommodation in such areas and within the Dominions, the delimitation of such areas.
2. Posts and Telegraphs, including telephones, wireless, broadcasting, and other like forms of communication.
3. Post Office Savings Bank.
4. Public Services.
5. Agencies and institutions for the following purposes, that is to say, for research, for professional or technical training or for the promotion of special studies.
6. The Osmania University subject to the provisions of the Royal Charter.
7. The geological, botanical and zoological surveys of the Dominions; and meteorological organisations including the Observatory.
8. Ancient and historical monuments; archæological sites and remains.
9. Census of the Dominions.
10. Admission into, and emigration and expulsion from the Dominions including the regulation of the movements in the Dominions of persons who are not His Exalted Highness the Nizam's subjects domiciled in the Dominions.
11. Quarantine and hospitals connected with quarantine.
12. Import and export across Customs frontiers as defined by the Government.

13. Railways; the regulation of railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administration as carriers of goods and passengers.

14. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

15. Lighthouses, including beacons and other provision for the safety of aircraft.

16. Carriage of passengers and goods by air.

17. Copyright, inventions, designs, trademarks and merchandise marks.

18. Arms, firearms; ammunition.

19. Explosives.

20. Petroleum and other liquids and substances declared by Government to be dangerously inflammable, so far as regards possession, storage and transport.

21. Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations.

22. Regulation of labour and safety in mines and oilfields.

23. Regulation of mines and oilfields and mineral development.

24. The law of insurance and the regulation of the conduct of insurance business; Government insurance.

25. Banking, that is to say, the conduct of banking business by corporations.

26. Offences against laws with respect to any of the matters in this list.

27. Inquiries and statistics for the purpose of any of the matters in this list.

28. State lotteries.

29. Naturalisation.

30. Establishment of standards of weight.

31. Taxes other than local taxes.

32. Procedure in Atiyat Courts.

33. Public Order (but not including the use of His Exalted Highness' military or air forces in aid of the civil power); the administration of justice; constitution and organisation of all courts, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subject to such detention.

34. Fees in respect of any of the matters in this list.

35. Cheques, bills of exchange; promissory note and other like instruments.

36. Police, including railway and village police.

37. Removal of prisoners and accused persons from the Dominions to another State or Province and *Vice versa* subject to existing treaty rights.

38. Any other matter in regard to which the Government may consider it necessary or expedient to initiate legislation.

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LIST II

Matters on which bills could be introduced without previous permission of Government

1. Jurisdiction and powers of all courts with respect to any of the matters in this list.
2. Procedure in Rent and Revenue Courts.
3. Public Works, lands and buildings.
4. Compulsory acquisition of land.
5. Libraries, museums and other similar institutions controlled or financed by the Government.
6. Public Health and Sanitation; hospitals and dispensaries; registration of births and deaths.
7. Pilgrimages to places within the Dominions.
8. Burials and burial grounds and burning ghats.
9. Education.
10. Communications, that is to say, roads, bridges, ferries and other means of communication excepting posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.
11. Municipal tramways; ropeways; inland waterways and traffic thereon; and vehicles.
12. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power.
13. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; improvement of stock and prevention of animal diseases; veterinary training and practice; pounds and the prevention of cattle trespass.
14. Fisheries.
15. Gas and gas-works.

16. Trade and commerce within the Dominions; markets and fairs; money-lending and money-lenders.

17. Inns and innkeepers.

18. Adulteration of food-stuffs and other foods; weights and measures.

19. Relief of the poor, unemployment.

20. Charities and charitable institutions; charitable endowments.

21. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition.

22. The incorporation, regulation, and winding up of unincorporated trading, literary, scientific religious and other societies and associations; co-operative societies.

23. Betting and gambling.

24. Offences against laws in respect of any of the matters in this list.

25. Inquiries and statistics for the purpose of any of the matters in this list.

26. Cesses on the entry of goods into a local area for consumption, use or sale thereon.

27. Dues on passengers and goods carried on inland water-ways.

28. Tolls.

29. Fees in respect of any of the matters in this list, but not including court fees.

30. Marriage and divorce; infants and minors; adoption.

31. Wills, intestacy and succession, save as regards agricultural lands.

32. Transfer of property other than agricultural land.

33. Registration of deeds and documents.

34. Trusts and Trustees.

35. Contracts, including partnership, agency, contracts of carriage, and other special forms of contract but not including contracts relating to agricultural land.

36. Arbitration.

37. Bankruptcy and insolvency; administrators-general and official trustees.

38. Actionable wrongs.

39. Legal, medical and other professions.

40. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.

41. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

42. Prevention of cruelty to animals.

43. Vagrants and backward tribes.

44. Civil Procedure, including the law of limitation.

LIST III

Matters in regard to which previous permission of Government is necessary for introducing legislation

1. Criminal law and criminal procedure.
2. Wills, intestacy, and succession in regard to agricultural land.
3. Transfer of property in regard to agricultural land.
4. Contracts, including partnership, agency, contracts of carriage, and other special forms of contract in regard to agricultural land.
5. Newspapers, books and printing presses.
6. Poisons and dangerous drugs.
7. Boilers.
8. Factories.
9. Welfare of labour; conditions of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions.
10. Unemployment insurance.
11. Trade unions; industrial and labour disputes.
12. The prevention of the extension from and to the Dominions of infections or contagious diseases or pests affecting men, animals or plants.
13. Electricity.
14. Navigation on inland water-ways as regards mechanically propelled vessels; and the rule of the road on such water-ways; carriage of passengers and goods on inland water-ways.
15. The sanctioning of cinematograph films for exhibition.

16. The punishment of persons who refuse to give evidence or produce documents before committees of the legislature.

17. Election to the legislature.

18. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other administration for the use of prisons and other institutions.

19. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

20. Intoxicating liquors and narcotic drugs, that is to say, the production, transport, purchase and sale within the Dominions, of intoxicating liquors, opium and other narcotic drugs.

21. Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land; land improvement and agricultural loans; colonization; Courts of Wards; encumbered and attached estates; treasure trove.

22. Forests.

23. Protection of wild birds and wild animals.

24. Production, supply and distribution of goods; development of industries.

25. Rates of stamp duties, cheques, bills of exchange, promissory notes and other like instruments.

26. Rates of court fees.

27. Fees in respect of any of the matters in this list but not including court fees.

28. Inquiries and statistics for the purpose of any of the matters in this list.

29. Repeal of any existing law.

30. Local taxation.

Interpellations, Resolutions and Motions

While discussing in the House of Commons the question of granting the right of interpellation to the Indian Legislatures, Lord Curzon remarked that that was "desirable, in the first place, in the interests of Government which at the present moment is without the means of making known its policy, or of answering criticisms, or animadversions, or silencing calumny," and also "in the interests of the public who in the absence of official information were apt to be misled, to form erroneous apprehensions, and to entertain unjust ideas." It is possible that such a right may be abused, and converted into a weapon of malice and animosity; but as Lord Morley observed, "Isolated incidents of administration or personal questions may be and often are at the same time matters of public and general importance."

Interpellations

Dealing with the grant of the right of moving resolutions the Government of India had expressed: "We think that Members should have opportunities for placing their views on public questions before the Government, and we are impressed with the benefit which both the Government and the educated public would derive from the well-ordered discussion of administrative subjects in the Legislative Council, either on a reference from the Head of the Government, or at the instance of a private Member. Such discussions would give the Government an opportunity of making their views on a question known, and of explaining the reasons which had led them to adopt a particular line of action."

Resolutions

Agreeing with the above views, Lord Morley felt confident "that these increased facilities, judiciously used, will be pronounced of the greatest advantage not only by the Councils and those of whom they represent, but also by Government who will gain additional opportunities both of becoming acquainted with the drift of public opinion, and of explaining their own actions."

These rights indeed are of great importance, as they help the ventilation of public opinion on the one hand,

and allow the necessary light to be thrown on the policy and intentions of the administration on the other. It is hardly necessary to suggest that so long as these rights are not conceded, no effective 'association of the people with the administration' will be possible. We are therefore of opinion that within the limits we have set below, all these rights should be allowed to the Legislature.

Interpellation

The Committee is of opinion that the right of interpellation should be granted to the Legislature except in regard to

(1) matters which are outside the purview of the Legislature,

and

(2) matters *sub judice*.

Conditions
governing
the right

Questions should be framed in respectful and temperate language, and should be in the form of a request merely calling for information, and should not ask for any opinion or solution regarding hypothetical or legal questions, and should not pertain to the religion or the religious practice of any community or class. A notice of three weeks should be given for each question, and no member should be entitled to give notice of more than five questions during a session. Supplementary questions should be allowed, and questions remaining unanswered may be renewed in the following session.

President's
powers

The President should have the right to disallow any question if considered by him to be prejudicial to the public interest or to amend any question in such a manner as to render it admissible.

Resolutions

Excepting matters in respect of which interpellations may not be allowed, the right of moving resolutions with the permission of the President should be allowed; but the President should have the power to disallow any resolution, if it be considered by him to be not consistent with or prejudicial to the public interest. No member should have the right to submit more than three resolutions and priority of discussion should be determined by balloting. Resolutions not disposed of in any session

may be taken up in the next session. Resolutions passed by the Council should be forwarded to Government for consideration, but they should be recommendatory in character and not binding on Government.

Motions

Except in regard to matters about which questions are prohibited, motions should be allowed with the consent of the President, but the President should have the power to disallow motions at any stage of the discussion.

Adjournment Motions

Except in regard to matters about which questions are prohibited, adjournment motions should be allowed with the consent of the President for the purpose of discussing definite matters of urgent public importance.

Petitions

Petitions relating to bills under consideration should be admitted but they should not relate to expenditure of public moneys or charges thereon. The Legislature should not, however, be entitled to consider any petitions relating to local bodies once such bodies are constituted.

Budget

Full consideration has been given to the question as to what powers should be given to the Legislature in respect of the budget. The official members maintain that, in the first instance, it should be left to Government to decide as a matter of policy whether the budget should be introduced in the Legislature or not. If, however, the Government should consider it advisable that with a view to ascertaining public opinion the budget should be placed before the Legislature, they would recommend that there should be only a general discussion in regard to the sources of revenue and distribution of expenditure, and no voting upon any item of expenditure.

Introduction of Budget to be left to Government's discretion or made obligatory?

Official Members' opinion

The official members also point out that powers in regard to financial matters were given to the British Indian legislatures at a very late stage in their development, and that in view of the type of constitution proposed for our Legislature, as well as keeping the history and traditions of the State in view, they cannot recom-

mend full power to the legislature to vote on grants (particularly, when voting would pertain only to reduction or rejection of grants and not to any increase thereof). They apprehend that in the absence of detailed and expert knowledge, the exercise of such powers by members of the Legislature might adversely affect the work of nation-building departments, and hinder rather than help their progress. They think ample scope has already been provided for the expression of views on financial and administrative questions, through interpellations, motions, and resolutions etc., and Government would as a matter of course take notice of such views in adjusting their financial policy.

If, however, Government decides in favour of the policy of introducing the budget in the Council, then the budget should be presented in the form of a general statement sufficiently detailed and giving a clear exposition of the whole financial position, and if in the light of the general discussions that would follow Government should decide to revise the budget, the Finance Member may make a statement regarding the estimates so revised, but no discussion should be allowed thereon.

The non-official members do not agree with the view that the introduction of the budget should be left to the discretion of the Government. They hold that it should be obligatory on the Government to place the budget before the Council.

Whether right
of general
discussion
on the budget
or voting on
grants should
be given to
Legislature

There is difference of opinion however, among the non-official members as to whether the Legislature should have only the right to discuss in a general way the revenues and expenditure of the State or whether it should also be invested with the power of *voting on* 'demands for grants.'

One of the non-official members, Mr. Akbar Ali Khan, is in agreement with the views held by the official members, but the other non-official member and the Chairman are of opinion that when the resolutions of the Legislature are not binding on Government and there are ample safeguards in respect of the budget itself, the Legislature should not be deprived of the right of voting specific grants.

Matters expressly excluded from the purview of the Legislature	Matters in regard to which various rest with the Gov	ed by solve the re
<ol style="list-style-type: none"> 1. The Ruler and the Royal family. 2. The relations of His Exalted Highness with the Crown or any other State or Prince. 3. Treaties, agreements and conventions between the Ruler and the Crown or any other State. 4. The military and other armed forces. 5. Extradition of criminals. 6. European British sub- 	<ol style="list-style-type: none"> 1. Local self-government in State, regulation of house accommodat the Dominions, the delimitati 2. Posts and Telegraphs, including, casting, and other like forms 3. Post Office Savings Bank. 4. Public Services. 5. Agencies and institutes for the to say, for research, for profe or for the promotion of speci 6. The Osmania University subje Royal Charter. 7. The Geological, Botanical and Dominions ; and meteorolog the Observatory. 8. Ancient and historical monum remains. 9. Census of the Dominions. 10. Admission into, and emigrat Dominions including the res the Dominions of persons w water- ness the Nizam's subjects d 	<p>All nent the po- ve the d any go to period on by special If they After t of the govern- ppoin e nex i late month ate c</p>

They also think that motions regarding appropriations of revenue and reduction of grants or any item in any grant should be allowed. But they should be only 'recommendatory in character,' and the President should have the power to disallow such motions if, in his opinion, they are not consistent with the public interest. The Government should have the power in cases of emergency to authorise such expenditure as may in its opinion be necessary either in its own interests or for the carrying on of any department. Mr. Vaidya insists that information regarding such expenditure should be furnished to all members of the Legislature at the earliest possible convenience, but agrees with the Chairman that the procedure to be followed in the case of additional and supplementary demands should be the same as observed in that of 'original demands.'

Appropriation
of Revenue;
Rejection and
Reduction of
grants

Emergent
Expenditure

Additional
and Sup-
plementary
Demands

The Committee however recommends unanimously that the undermentioned items of expenditure should not be discussed or voted upon:—

Items of
Expenditure
outside the
purview of
the
Legislature

- (1) Expenditure regarding matters excluded from the purview of the Legislature.
- (2) Pensions and Gratuities.
- (3) Sinking Fund charges and Interest on Public Debts.
- (4) Expenditure made obligatory under any law for the time being in force.
- (5) Salaries and Allowances.
- (6) Expenditure classified by Government as 'political.'

We attach herewith a chart detailing the several functions and powers which we have recommended for the Legislature.

We have already expressed our views on the different functions and powers which should be entrusted to the Legislature, and have also in general terms suggested the limits within which they may be exercised. The rules and regulations governing them will no doubt have to be framed in detail later on. But there are certain important matters concerning the Legislature and its work which need immediate consideration here.

Other
important
particulars
regarding
the
Legislature

**Life of
Legislature**

One of them is: What should be the normal life fixed for the Legislature? There is a view which recommends three years. In support of this, it is urged that the representatives of the different Interests will come in at short intervals and infuse fresh energy into the work of the legislature. The arrangement will at the same time increase and keep alive the political consciousness of the people. As against this view, it is held that the new members will take time to gather experience, and if their term of office is only three years, they may not have the time to put their experience to any great use. Moreover, they will not enjoy the necessary sense of security to devote adequate time to a proper consideration of the several proposals that may be placed before the legislature. Taking all aspects into consideration, we are of opinion that five years may be fixed as the life of every Legislative Council. Government may, however, reserve the right to dissolve the Council or to extend its life whenever it is deemed necessary. In the former eventuality, the next Council should be formed within six months from the date of dissolution.

**Language of
the
Legislature**

The proceedings of the Legislature should all be conducted in Urdu. But the President should be given the power to allow any member to express himself in Telugu, Marathi, Canarese or English if he feels satisfied that the member in question is not sufficiently acquainted with the Urdu language.

**The Bills to
have
recommenda-
tory value;
Power of
Veto**

Every Bill passed by the Legislature should have but a recommendatory value; and it should not be binding on the Government. The President *in* Council should have full power to veto it, but it should, under no circumstance, be enacted into law without the assent of the Ruler.

**Enforcement
of Rejected
Bills**

Any Bill, rejected by the Legislature, should become law on certification by the President *in* Council to the effect that its enactment is necessary in the public interest and for carrying on the administration.

Ordinances

In extraordinary circumstances, the President *in* Council will have the power to promulgate an ordinance. Such ordinance should have the effect of law for six months unless in the meantime, it is renewed or superseded by an enactment of the Legislature.

The form of the Oath administered to the members of the Legislature is different in different Indian States. In some, only one form is prescribed, requiring an oath or affirmation of allegiance to the Ruler and his heirs and successors. In some, two forms are followed; one is administered to the subjects of the State concerned, and the other to those whose services have been borrowed from the Government of India. A third form is also followed containing an oath or affirmation of allegiance both to the Ruler and the King Emperor. We reproduce below all the three forms with the necessary additions thereto to suit our purposes:—

I. “I having been elected
nominated
a member of this Council do solemnly swear (or affirm)
that I will be faithful and bear true allegiance to *His Exalted Highness the Nizam of Hyderabad and Berars*, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.”

II. “I having been nominated a member of this Council do solemnly affirm that, saving the faith and allegiance I owe to His Majesty the King Emperor, I will be faithful and bear true allegiance in my capacity as member of this Council to *His Exalted Highness the Nizam of Hyderabad and Berars*, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.”

III. “I having been elected
nominated a member of this Council do solemnly swear (or affirm) that I will be faithful and loyal to *His Exalted Highness the Nizam of Hyderabad and Berars*, and to His Majesty the King Emperor of India, and to their heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.”

The Committee is divided as to which form should be prescribed for our Legislature. One view is that Form No. I which is prescribed in Mysore should serve our purpose. The other view is that as in Indore, Forms I and II may be adopted. Form III which is followed in Travancore and Cochin does not call for consideration in our State. But it may be made clear that if Forms I and II are adopted here with the necessary alterations, the

position of the members of the Legislature will be on all fours with that of the members of British Indian Legislatures. (*Vide* Forms No. I and III Schedule IV of the Government of India Act 1935).

CHAPTER III

SECTION I

Central Advisory Bodies

We have so far dealt with the composition, functions and powers of the Legislature, and made our recommendations about them. But we hold that representation on the Legislature alone will not secure effective association of the people with the administration. In order therefore that the connection between the people and the Ruler which under our Constitution subsists as a living reality, might be further strengthened and consolidated, it is necessary that other basic requirements should also be fulfilled. And that is possible when further statutory bodies are created which will, in an advisory capacity, help the Government. An indispensable condition of success of such bodies is that, by their nature and composition, they should, as far as possible, be popular and non-bureaucratic.

Importance of associating non-official experts and representatives of interests with Administration

It may not be necessary to point out that at this stage of our social evolution, the running of the administrative machinery has become so much a matter of complicated technique that our primary need is an administration which will derive its strength from the high tone of its own character and possess a deep insight into the different sides of our social life. The growing needs of the times and the changing conditions of our society, all indicate that we must allow our knowledge of eugenics, economics, statistics, criminology, technology and of the applied arts and sciences to influence and shape the conduct of our administration.

We are therefore of opinion that the administration will in future stand in need of the advice and co-operation of statutory committees composed of experts and representatives of the Interests concerned. These committees will also be a means of popularising the administration, but they need not necessarily be composed of members of the Legislature.

Advisory
Standing
Committees
in
Progressive
Indian States

In the Indian States of Mysore, Travancore and Cochin there exist Advisory Boards and Committees dealing separately with finance, accounts, education, local self-government, public health, commerce and industries, railways, electricity and public works. We attach herewith a chart which will afford an idea of the functions they have to discharge.

The
composition
and
functions of
such Boards
and
Committees

We are definitely of opinion that such boards and committees should be attached to the central administration on a statutory basis, whereby the necessary co-operation between the officials of the State and the non-official experts and representatives of different interests may be promoted without affecting in any manner the initiative and discretion of the Executive.

Conditions
governing
the work of
these
Committees

As is the practice in other progressive Indian States, such boards and committees should function in an advisory capacity. They should have no concern with the details of administration and the proceedings of their meetings should be treated as confidential.

Composition
and
functions

The Government will no doubt appoint the officials it deems desirable on the several committees to work with the non-official experts and representatives of the different interests in the country. But we may indicate here the committees that will need to be formed and their composition and functions.

Board of Public Health and Sanitation

Board of
Public
Health and
Sanitation

The Board should consist of the following:—

- (1) Member of the Executive Council in charge of Public Health (*President*).
- (2) Four officials nominated by Government. (The Director or Secretary of the Department concerned should be the Secretary to the Board).
- (3) Four Nominated non-officials one of whom should be a woman.

The Board should discuss and record for the consideration of Government its opinion on

- (i) questions of policy,
- (ii) all new schemes involving expenditure,

(iii) all annual reports regarding the working of the departments concerned,

(iv) all important measures or matters submitted by Government for expression of opinion.

Note:—The Board should be appointed for three years.

Agricultural Development Board

Official Members:—

(a) 1. Member of the Executive Council in charge of Agriculture (*President*).

Agricultural
Development
Board

2. Director, Department of Agriculture (*Secretary*).

3. Director, Department of Commerce and Industries or any official appointed by Government for reorganizing cottage industries etc.

4. Registrar, Co-operative Societies,

5. Director, Veterinary Department,

6. Director-General of Revenue
and

(b) Five Nominated non-officials.

The functions of the Board should be the same as those suggested for the Board of Public Health and Sanitation.

Industrial Development Board

The Board should consist of 11 members as follows:—

Industrial
Development
Board

(a) The Finance Member or the Member in charge of the Department of Commerce and Industries (*President*).

(b) Five officials to represent

(i) Roads and Telephones,

(ii) Railways,

(iii) Mines,

(iv) Electricity,

(v) Commerce and Industries

(Any of the official members may be appointed as Secretary)

and

(c) Five non-officials.

The functions of the Board should be the same as those suggested for the Board of Public Health and Sanitation.

Board of Education

Board of
Education

- (a) Member for Education (*President*),
- (b) Educational Secretary to Government,
- (c) Director of Public Instruction (One of the above two should be the Secretary),
- (d) Pro-Vice-Chancellor of the Osmania University and
- (e) Three Nominated non-officials.

The functions of the Board should be the same as those suggested for the Board of Public Health and Sanitation.

We recommend the establishment on similar lines of the following committees under the Board of Education for

- (1) Elementary Education.
- (2) Secondary Education.
- (3) Adult Education.
- (4) Technical and Industrial Education.
- (5) Physical Education.
- (6) Women's Education.
- (7) Education of the Backward Classes.

The Finance Committee

Finance
Committee

In addition to the above boards and committees, the formation of a Finance Committee seems to be necessary, particularly in view of the fact that we have been divided in our opinion in respect of the powers to be exercised by the Legislature in regard to the Budget.

The proposed Finance Committee will be composed of

- (a) The Finance Member (*President*),
- (b) The Financial Secretary (*Secretary*),
- (c) One Nominated Official,
- (d) Two Nominated non-officials.

The Committee may consider and record its opinion on

- (i) The Budget.
- (ii) Measures of taxation.
- (iii) Proposals for improving the State finances.
- (iv) Proposals for retrenchment.

In addition to the foregoing subjects, the following may also be placed before the Committee for opinion.

- (a) Reports of Special Committees appointed to consider any of the above subjects.
- (b) Bills proposed to be introduced in the Legislature relating to the above subjects.
- (c) Any question of policy on which the Finance Member requires the opinion of the Committee.

There is no doubt that our proposed Legislature will generally secure the services of properly qualified representatives of Interests. Still, having regard to the general level of education in the country and to our own experience of public life, it is difficult to say that better men than those found in the Legislature will not be available for the different Advisory Boards and Committees proposed. For, it is a matter of common knowledge that people of character and ability sometimes do not care to contest for seats in the Legislature. There are also people who have no taste for addressing large gatherings, but who are capable of making themselves very useful on small committees. We have, therefore, kept the constitution of the proposed Boards and Committees sufficiently elastic, so that Government may secure the co-operation of the best persons available, without being tied down to any restriction on their choice which may affect the efficiency of these bodies. This does not, however, mean that members of the Legislature should not be appointed on these Boards and Committees.

We should also make it clear that we have for the present suggested the means whereby the co-operation of the people may be secured in so far as the nation-building departments are concerned. But we may observe that where the Ruler and the ruled have a unity of purpose,

the possibilities of such co-operation are by no means limited, and that the Government may profit by other committees of a similar nature and also accord to them a statutory position.

Committees
for the
management
of
Endowments:
and
appointment
of a
Commission
to enquire into
the ad-
ministration
of the Ec-
clesiastical
Department

Our attention has been drawn to the administration of the Ecclesiastical Department of the State and it is suggested that a Committee composed of the representatives of the two great communities should be formed to assist this department with its advice. In this connection, Mr. Vaidya insists that the Legislature should be given the power of asking questions and moving resolutions concerning the administration of this department, and should also have control over its budget.

We have already excluded ecclesiastical matters from the purview of the Legislature, as is done everywhere else in India; for we apprehend that if these matters are brought within the purview of the Legislature or if a joint committee in connection with the Ecclesiastical Department is formed, no happy results will follow. At the same time, it is impossible for us not to bring to the notice of the Government the views held generally by the public concerning this department. It is to be admitted that the present administration of the department is more efficient and impartial than before, but even as the latest Government review of its work shows, there are still some matters which call for attention. It is alleged that certain orders and circulars exist which are calculated to hurt the feelings of a certain section of the people, and that the department interferes in matters which should not concern it at all. There is also the complaint, that obstacles are placed in the way of freedom of worship and the enjoyment of other civic rights, and that the management of endowments and charities is not satisfactory.

Taking everything into consideration, we are of opinion that two Advisory Committees may be formed—one for the Muslim endowments composed of Muslim members and the other for the Hindu endowments composed of Hindu members—so that the department, which unfortunately has become the target of criticism, may not be deprived of the benefits resulting from the association of the people with its administration. We also recommend that a commission be appointed to ascertain

what the complaints against the department are and whether there is any basis for them; and what preventive or reformatory measures are necessary in the light of the enquiry?

SECTION II

District Conferences

The Committee has also considered the question whether in addition to the proposed Central Advisory Boards, other institutional agencies should be constituted by means of which the association of the people with the administration might be further strengthened. In this connection, the Chairman and Mr. Vaidya have emphasized that a representative Assembly on the Mysore model should be created. In support of their view, they urge that the assemblage at the capital of representatives of every class and interest from all over the Dominions with the privilege to place before the representatives of the Government their needs and aspirations, will produce happy psychological results, and will be reassuring, particularly to those who under the proposed constitution of the Legislative Council will have no franchise whatever. They also hold that the establishment of such an Assembly will fulfil eminently the basic aim of Government, underlying the institution of our enquiry.

Why a Representative Assembly on the Mysore model be not established?

In order, however, that such an Assembly may not clash with the Legislature, they suggest that the Assembly should not be entrusted with functions and powers as might lead to such apprehension, and this result may be secured by allowing its members merely the privilege of

- (1) discussion of the general principles of the bills introduced,
- (2) asking of questions in respect of matters of general public importance and
- (3) expression of their needs and desires.

As against this view it has been urged that such an Assembly, even as the history of the Representative Assembly of Mysore has shown, will not for long remain content without any real powers; and that if any powers were conceded to it, it is bound to collide frequently with the Legislative Council; and its establishment without

any powers allowed to it can hardly be justifiable merely on sentimental grounds. No such Assembly exists anywhere else in India outside Mysore, and only two individuals from amongst a host of those whose representations have been received, have made such a suggestion.

In the absence, therefore, of any strong and special reasons, it does not seem desirable to create 'hyper-excitation in the body-politic' or add any ineffective limbs to it.

It is also held that such an Assembly cannot be expected to throw any real or useful light on the principles or the implications of any bill or even to understand it at all. The Mysore Assembly was originally formed at a time when the State had no legislature of its own and it was merely intended to be a body of petitioners submitting their collective needs and desires; and it was allowed to exist even after the formation of the Legislative Council merely because the Council was given no power beyond that of legislation. Now when the question before us is to extend the powers of the Legislature in the State and of ascertaining through it the needs and wishes of the people, it will be a fruitless venture to have another constitutional organ composed of members not adequately equipped to tackle the complicated problems of Government. The Mysore Reforms Committee of 1923 had to go very anxiously into the question of removing the inevitable misunderstandings and conflicts that would arise between the Assembly and the Legislative Council. When that is the lesson of experience, it will hardly be a sensible procedure to bring into being an Assembly where there is none, and then, to devise means to remove the friction that is bound to arise between such a body and the Legislative Council.

Representa-
tive
Assembly in-
advisable:
District
Conferences
proposed

Taking everything into consideration, the Committee is unanimously of opinion that instead of establishing an Assembly at the centre, an annual Conference presided over by the Subedar of the area concerned, may be held at a convenient place in each district on such dates between the 15th Ardibehisht and 15th Khurdad as the Subedar may notify, so that the inhabitants of that district may seek free admission to that Conference and submit representations in regard to their local requirements.

Detailed rules relating to the proposed conferences may be framed later on. We may however make a few general observations here. Any representations to be made at the Conference should be sent to the Subedar two clear months before the date announced for the Conference, and the Assistant to the Subedar acting as Secretary to the Conference, should summarise and tabulate these representations, and also, under the personal supervision of the Subedar, prepare the statements to be made by the latter at the meetings of the Conference in reply to the representations submitted. Any person desiring to say anything by way of further explaining the subject-matter of any representation submitted by him should be entitled to speak, with the permission of the Subedar, and, in case the representation is from a group of persons, the spokesman should be selected by the persons comprising the group. The Subedar should be entitled to ask any question of a person or group of persons submitting a representation. The Conference should be in session for two days, and be attended by the district officers of all administrative departments.

Object of this
Conference
and Rules
and other
matters

The Subedar should, at the end of the Conference, submit a copy of its proceedings together with his report thereon to Government for consideration and necessary action, and in his opening speech at the next Conference explain to the people the action which Government was pleased to take in respect of the matters to which its attention had been invited in his report.

We may also observe that the occasion may profitably be made use of for holding exhibitions and demonstrations and also for expressing appreciation of humanitarian and other services rendered by individuals. We suggest that persons attending the Conference should be entertained and looked after at Government expense and that suitable arrangements should be made to make their stay comfortable.

We feel certain that the advantages resulting from such Conferences will be far-reaching in character. The people will receive a political training; they will get to know the aims and intentions of Government as well as the difficulties of the administration; their outlook will expand. They will have, stimulated in them, the desire

Advantages
of holding the
Conferences

for social service and philanthropic work. Further, these conferences will indirectly keep the villagers and other officials always on the move, and enable them to place before Government their views and wishes. Government in its turn will come to know of the work and the weaknesses of the local agencies of administration, and the Legislature also will have at its disposal the necessary material on which it may base its legislation.

CHAPTER IV

Local Self-Government

SECTION I

General

We have already briefly dealt with the advantages of district conferences, their functions and mode of procedure. These conferences as we have pointed out before, will serve as links between the central and local agencies of administration. Our proposals in respect of the former have already been submitted and we now propose to state our recommendations concerning the latter.

We are dealing with these bodies in the closing stages of our report, not because they are by any means of lesser importance, but merely owing to the fact that the various representations we have received from the public have one and all given their main attention to the Legislature. It is these local bodies that form the true basis of self-government; without them, a Legislature will merely be an elaborate structure resting on no solid foundations. They are so closely connected with the happiness and welfare of the population on whose labour rests the prosperity of the country. These institutions neutralize the defects of overcentralization, relieve financial stringency by opening out new sources of taxation, and give the people that training in the management of their local affairs which stands them in good stead in the higher spheres of public life, and prepares them effectively to associate themselves with the administration.

The population* for which local institutions have to

* A map showing the distribution of population of the Dominions is already given against pages

be created is distributed thus in villages and towns:—

Villages whose population is below 500	=12,601
„ „ „ is between 500 & 1,000	= 5,439
„ „ „ „ 1,000 & 5,000	= 3,657
Towns „ „ „ 5,000 & 10,000	= 94
„ „ „ „ 10,000 & 15,000	= 21
„ „ „ „ 15,000 & 20,000	= 5
„ „ „ over 20,000	= 7

The past and
present of the
Local self-
governing
bodies

Before dealing with the present needs of these villages and towns, we may see what has been done so far to establish local self-governing bodies in the Dominions.

In the year 1289 F. (1879-1880), a scheme of Local Fund administration was adopted in order to utilize the one-anna cess for local needs. Under this scheme, local boards were formed in the districts and the taluqs of the State. A Central Board was also formed at the capital composed of representatives of the Revenue, Medical and Educational Departments. In 1313 F. (1903-1904), this central organization was abolished, but the district and taluq boards continued to function under the supervision of the Revenue, Medical and Educational Departments. These bodies administered not merely the one-anna cess but other local cesses as well which were levied to meet the expenditure on rural sanitation.

In 1309 F. (1899-1900) Government passed the Local Cess Act which was intended to place the management of the local cess on a sound basis, and also to create local bodies for urban areas to administer the local cesses under the Act. But adequate interest was not evinced in executing its provisions, and, except in a few cases, urban boards were not brought into existence nor was the management of local taxes taken away from the district and taluq boards. There is, however, this to be noticed that during the last seven or eight years, the accounts of rural boards have been separated from those of municipalities, and the question of the formation of municipal committees, and the framing of bye-laws for their administration has engaged attention. The present position is that, in addition to the district and taluq

boards, municipalities have been formed in seven towns, having a population of more than 20,000, composed of an equal number of official and nominated non-official members.

It is thus clear that the present state of affairs is not all that could be desired, and we are of opinion that village Panchayats, village courts and major and minor municipalities should be constituted and the existing municipalities and boards reconstructed on fresh lines. ^{Constitution of Panchayats, Village Courts, and Reorganization of Municipal Committees and Rural Boards} We begin our recommendations in the bodies which are to be constituted in villages.

SECTION II

Panchayats and Village Courts

The Panchayat is an ancient institution in India and ^{The ancient Panchayats of India} writers have thrown a halo of romance around it. In the days of the Hindu and Muslim rule the village Panch appeared before the tax-collectors as the spokesmen of the dumb village population. They kept a watch over the village servants; settled local disputes in accordance with local customs and traditions, and the natural instincts of justice and equity; sustained and guided social activities and afforded to the villages a self-sufficient existence unconcerned with the world outside. With the advent of the British, the old order underwent a change. Their centralizing policy brought the village officers under the control of the revenue and police agencies of the provincial governments. The rule of law replaced the rule of tradition and custom; courts were opened and their decrees enforced and a new class of professionals, the pleaders, came on the scene. In the face of these new developments, the old village organization could not long survive. So, when it decayed or disappeared the judicial courts situated far away from the villages became difficult of approach, and even the officers of Government grew more and more inaccessible, and the local bully began to domineer village life.

In the early stages of British administration, several experiments were tried in various provinces to establish institutional agencies suited to local conditions. ^{Attention of the British Government drawn to Local Bodies} Acts were passed giving judicial powers to village Panchayats

in Madras (1819), Bengal (1870), Bombay (1892). Sanitation and other civic matters were also entrusted to them. But financial and other difficulties long stood in the way of giving these Panchayats further powers and functions. It was only in 1909, when the report of the Decentralization Commission was submitted, that Lord Morley came to realize that, in any scheme of self-government, the Indian village should be made the starting-point.*

Panchayats in
different
provinces
and their
functions

The conditions governing the Panchayats are different in different provinces of British India. In some, the Panchayats deal with single villages; in others with groups of villages. In some provinces, they are merely concerned with sanitation and other civic matters, and in some, they also exercise civil and criminal powers. Some Panchayats work under the supervision of higher local bodies and some under the partial supervision of other local bodies and of the Collector of the district. Some Panchayats are composed of elected members; some of members chosen by Government, and some, of both elected and nominated members. In some provinces, special officers are appointed to supervise and guide the Panchayats and to audit their accounts; and in some, this is done by the local boards and the Revenue officers. In some places the record of work is good and in others unsatisfactory, and the number of Panchayats therefore rises or falls according to changing conditions.

Panchayats
in Indian
States

Even in the Indian States where the Panchayat system is in vogue, there is considerable variation in their structure, powers, functions and financial resources, and the extent of supervision and control; and this is as it should be, in view of the variations in local conditions.†

In dealing with the subject of Panchayats, we have to decide in the first place what type of Panchayats may be proposed for our State. Are we

* "The village in India has been the fundamental, indestructible unit of the social system, surviving the downfall of dynasty after dynasty. I desire your Excellency-in-Council to consider the best way of carrying on a policy which would make the village a starting point in public life."

† We attach herewith a chart which will afford an idea of Panchayats in some of the Indian States.

to assign a group of villages to each Panchayat, or allow a Panchayat to every village with a certain minimum of population? In the Punjab and the United Provinces, a Panchayat has jurisdiction over an area extending over 15 square miles or having a population of 10,000. In Bombay and Madras, both the types exist. In Mysore, every village of a certain standing has a Panchayat of its own; and in Cochin an area of 12 square miles or a population of 12,000 forms a Panchayat unit.

The most generally accepted view is that there should be a separate Panchayat for every village. A few years ago the Government of Bombay appointed a special officer to inquire into the working of local self-governing institutions, and he was of opinion "that there is a certain unity in the village, a local patriotism, which can be enlisted for the general good; that people are interested in the affairs of their own village and capable of managing its concerns at a state of advancement which does not qualify them for the administration of a wider area, and that the inhabitants of an individual village intimately acquainted with its needs and on the spot are able adequately to supervise and control its works and institutions when they might be unable or unwilling to deal with those of a group."

A Panchayat
for a Village
is more
desirable

We subscribe to the above view and think that the arrangement it suggests will give self-confidence to the villagers, strengthen their local sentiment and save them from any entanglements with neighbouring villages. We are of opinion that the population of a village that should warrant the formation of a Panchayat may be from 1,000 to 5,000 including outlying *mazras*, but this condition may be amended later on if circumstances demand.

The method of election to the Panchayat is an important question. As we have pointed out already, it varies from province to province. The inhabitants of our villages are generally illiterate, conservative and superstitious, and are so stratified by the caste system that they are alien to any sense of equality among themselves. It is rather premature, therefore, to expect that they will wisely exercise the power to vote, if given to them. Besides, there is the apprehension that open elections may tend to create party factions and disturb the even tenor

Proposed
Method of
election

of village life. Taking all these into consideration, we think a method of selection should be devised which would avoid internal strife and squabble and secure at the same time satisfactory co-operation between the people of the village and the Government.

We therefore propose that, on receipt of an application from a village for the constitution of a Panchayat, the Tahsildar should prepare, in an open meeting of the elders of the village, a panel of double the number of persons needed for the Panchayat, and the District Collector after consulting the Sub-divisional Officer concerned and such other persons as he likes, should select from the panel and appoint, the number required for the Panchayat.

Other general
matters

In regard to other matters connected with the Panchayats, we are of opinion that:

1. Each Panchayat should function for three years, unless it is suspended or abolished under No. 2 *infra*.

2. A Panchayat should consist of not less than five and not more than eleven members; and in every case the Taluqdar should have the power to fix the number with due regard to population and other considerations. The Collector should have the power to suspend or dissolve a Panchayat or to remove any member thereof in cases of misbehaviour, disgraceful conduct, gross neglect of duty or misappropriation of funds; and that such suspension, dissolution or removal should be preceded by a proper enquiry into the matter.

3. The Sarpunch should be the executive head of the Panchayat and should also be responsible for the maintenance of all records and registers.

4. The Sarpunch should be elected every year by the members constituting the Panchayat and the outgoing Sarpunch should be re-eligible.

If the Sarpunch is not elected by a clear two-thirds majority, the Collector should have the power to nominate one.

Functions

Functions of
Panchayats

The functions of the Panchayats are usually of two kinds—judicial and administrative. Where the Pan-

chayats are intended to settle disputes, stress is laid on the judicial side of their functions; and where the basic idea is that they should serve mainly as village municipalities, the administrative side is emphasized, and judicial powers are either not entrusted to Panchayats or, when so entrusted, are not generally of much consequence.

In the United Provinces, the primary function of the Panchayat is to investigate into local disputes. In the Central Provinces, the 'Municipal' Panchayats are not given any judicial powers; but the village Panchayats are given when they make a request for a grant of such powers. In the Presidency of Bombay, they are merely given the power to investigate into breaches of sanitary bye-laws; whereas in North-East India select Panchayats or some of their members are entrusted with judicial powers.

Working of
Panchayats
in British
India and
Indian States

In certain Indian States, the functions of the Panchayats are divided into 'optional' and 'compulsory.' The idea probably is that so far as compulsory functions are concerned, there should be some uniformity among them all, but that optional functions, may be entrusted to them if warranted by their ability and circumstances. This is a commonsense view, and when we come to propose the functions of Panchayats and other local bodies, we shall have a general clause to implement the idea.

In some of the Provinces of British India, the judicial work of the Panchayats has been regarded satisfactory and they are growing in popularity. In Bihar 118 judicial Panchayats were in existence in 1933-34 and they disposed of 2,400 criminal and 6,062 civil cases. In the Central Provinces the number for the same year was 6,162 and 10,203 respectively. Alongside of these encouraging figures there are several things which, interesting as they seem to be, make one, nevertheless, pause and reflect. An American lady (not Miss Mayo) has drawn a graphic picture of a Panchayat court which makes one feel that a decree is granted by that court to a male person if he is a bully or to a female if only she can shed tears in profusion.

Separate
Benches
for the
discharge of
judicial
functions

We think that considerations of distance and time and money often deprive many a villager of the chance of seeking justice and redress; and this reacts on the *morale* of society. Even where this consideration does

not exist, the result of prolonged litigation through an elaborate system of appeals, is as an Indian saying goes, simply this: "He who wins, loses: and he who loses, goes to the wall." Hence it is that we hold that in villages where the local atmosphere helps the dispensation of simple and natural justice, arrangements should be made whereby local disputes may be decided without allowing people, given to legal subtleties, any opportunity of interference whatsoever. But under existing conditions, it may not be desirable to entrust such a function to ordinary Panchayats; and we recommend that Government should appoint judicial benches composed of nominated members at centres where suitable persons are available.

Each Bench should consist of three persons, and it should hear only civil cases. We do not wish to go into the details concerning the nature of the cases to be heard by these benches or of the Government control over them. The department concerned may, in the light of the chart attached herewith, frame the necessary rules and regulations governing these matters.

**Administra-
tive
functions of
Panchayats**

Reverting to the subject of the Panchayats, we propose that they should be entrusted with the following administrative functions:—

- (1) Water-supply for domestic purposes.
- (2) Construction, maintenance and repairs of roads and bridges within the limits of the village.

NOTE:—If the roads and bridges within the limits of the village are vested in any other public authority, the consent of that authority should be necessary for undertaking any work in regard to such roads and bridges.

- (3) Sanitation and conservancy.
Prevention and abatement of nuisance, construction, maintenance and repairs of drains.
- (4) Maintenance and regulation of the use of public buildings vesting in or under the control of the Panchayat, grazing lands, tanks and wells.
- (5) Lighting.
- (6) Control of fairs, bazars and cart-stands.

Government Control

The provisions laid down by some of the Indian States in regard to control which may be exercised "by Government over panchayats" are reproduced below :—

- (7) Provision and maintenance of burials and burning ghats.
- (8) Planting and preservation of trees.
- (9) Any other matter likely to promote the health, safety, comfort, convenience and social or economic well-being of the inhabitants of the village.

Control

The question of the administrative control of Panchayat is rather a ticklish one. There are two schools of thought in British India. One school maintains that to fulfil the need of developing the capacity of the people for self-government and to give them a progressive political training, the control of Panchayats should be entrusted to the local bodies immediately above them. The other school would like to let practical experience decide the issue. In view of this difference in attitude, the control of Panchayats in British India is left to diverse agencies; and where the two standpoints have worked for a compromise, a system of 'dyarchy' has been the result.

Appointment
of Special
Panchayat
Officers

We in Hyderabad are not faced with this issue, because we have yet to evolve suitable bodies higher than the Panchayats themselves. We have therefore necessarily to recommend at this stage that the control of the Panchayats should be entrusted to the Taluqdars and the Divisional Officers concerned. The officers of the Public Health and Co-operative Departments may also be given the opportunity of local inspection. But this alone will not be enough, as it will rather be too much to hope that the Taluqdar and his assistants or any local bodies will, while attending to their own duties, be in a position to take adequate practical interest in the supervision of Panchayats.

The Government of Bombay complains that in 1934, a certain District Board was found to have audited the accounts of but one Panchayat, although under the rules it should have audited the accounts of twenty-eight. In another Province, some members were found to have appropriated to themselves the funds of the Panchayats, and when they anticipated awkward situations, they quietly

placed in the files promissory notes for the sums so appropriated. In a certain district the Sarpunch or the executive head of the Panchayat found it the only way out to burn away all the office records.

To avoid such situations and to make the Panchayats really useful and popular, special Panchayat Officers should be appointed. Those who are conversant with our rural conditions hold the opinion that our villagers possess the requisite talents and only need some stimulating influence to bring them into play. The Panchayat Officers may supply this need and at the same time keep the authorities concerned, well posted with the state of affairs in general, and also in accordance with their instructions give necessary help to the Panchayats.

We may here point out that the success that has attended the local self-governing institutions in the Punjab, Bihar, and Bengal is primarily due to the existence there of such special officers. In the year 1931 the Government of the Punjab had to retrench the posts of their paid Panchayat Officers, but very soon the conditions which followed in consequence, necessitated their re-appointment. In Bengal, it is admitted that there is every need for a link between the village population and the Government, and this is supplied by the Panchayat Officers. These officers audit the accounts, supervise elections, and guide the Panchayats in matters which come up for decision before them.

In Bengal, young and energetic members of the Provincial Civil Service are appointed as Panchayat Officers. In the Punjab, suitable persons from the Co-operative and Educational Departments are trained for this work; and invariably 30 to 40 Panchayats are placed under the jurisdiction of a single Panchayat Officer. We are strongly of opinion that similar arrangements should be made in our State. We are laying so much emphasis on this aspect of the question for the reason that the appointment of Panchayat Officers is a primary need of the hour.

Finances

Income of Panchayats

The Panchayats will serve no purpose unless they have independent financial resources of their own. Where they enjoy judicial powers, fines and fees form part of their income. In Bengal, the Panchayats do not

charge any fee for the settlement of criminal cases. But the view is held that when justice is brought to the very door of the villagers, there seems to be no reason why a court fee should not be levied. We are not, however, immediately concerned with this question, as we have not recommended the grant of judicial powers to Panchayats. It is possible, nevertheless, to suggest that the savings, if any, of the judicial benches may be assigned to the Panchayats of the area. But at this stage, it is not possible to anticipate where such benches will be established and what their income will be.

Another source of revenue for these Panchayats, may be the financial aid which the local boards may give them; but the resources of these very boards are not generally such as would permit them to afford any substantial aid to the Panchayats. Our proposal is that the Panchayats should not have any connection with the local boards. If this suggestion is adopted, it is likely that the local boards may not choose to give any financial aid to the Panchayats. But it would be short-sightedness if such an attitude is taken up by them, as it is to be remembered that the consequences of neglecting public health, for instance, in any part of the country are far-reaching, and, unless all parts are kept in good sanitary condition, even a tiny spot that is affected may become a source of trouble to the rest of the country.

In British India, and certain Indian States, the villagers themselves set apart a day or so, every week particularly during their off-seasons for social work within their own villages. We too may count on such a possibility. But for the present, we suggest the following sources of income for the Panchayats:—

- (1) A third of the Local Cess realised from a Panchayat village should be given to its Panchayat.

NOTE:—It is estimated that a village with a population of 1,000 should yield from this source about Rs. 180 one-third of which or Rs. 60 will go to the Panchayat.

- (2) Income from fairs, bazars, marriages, festivals, cart-stands, interest on arrears of land revenue etc.

- (3) Voluntary taxes such as house-tax, pilgrim-tax, profession-tax, and tax on burials and burning ghats etc.
- (4) Government aid (from funds especially earmarked by Government for this purpose) equal to the amount collected by the Panchayats through voluntary taxation.

But before we close this section on villages, we think it necessary to record the views which have been communicated to us relating to the conduct of village officers.

Some opinions
regarding
Village
Officers

It is said that "the wishes and needs of the poor villagers are not brought to the notice of responsible officers. This is not due to any absence of representative institutions; the trouble really lies with the system of village administration. The Patels and Patwaris indeed are not only the 'rulers' or 'executive heads' of the villages, but they are also their leading zamindars or land-holders. So their position as against that of the villagers is not only that of rulers or officers but also of rival land-holders. Besides, they are the money-lenders of these villages and do their business overtly or otherwise. The result is that the economic resources of the villagers are controlled entirely by them. They thus become the real instruments of ruin for the peasantry and great obstacles to their progress and prosperity. If, at any time, these dumb people are moved to seek redress, they speedily find out that they cannot contend against the Patels and Patwaris in their own waters; and this fact always holds them back from approaching the higher quarters for justice. They know that a Tahsildar can be transferred, that a Taluqdar can be suspended or dismissed or retired, that a Subedar can be transferred from one division to another, that a Secretary to Government can be shifted from one department to another, that Members of the Council themselves can change portfolios and that even the Sadr-i-Azam vacates his seat. But they know this that the Patel or Patwari can never be deprived of his power or his privilege to oppress. They feel that just as a king is succeeded as king by his son, so also the son of a Patel or Patwari succeeds to the cruel dignity of his father as a matter of heritage. They thus have to live on and die under their eternal grip. And so they bear their yoke and their oppression without open grumbling. If the

Government wishes to improve the situation and place itself in possession of the real needs and wishes of the villagers, it is imperative that the present system governing the appointment of Patels and Patwaris should be abolished and the village administration run by a removable executive."

Much can be said for and against the various issues raised in the above extract. We, however, rest content with the observation that if the proposed conferences and Panchayats were established, they will powerfully react on the conduct of village officers. A good Panchayat Officer and a good Sarpunch can effect a powerful change in the life of the villagers. It is also likely that the Panchayats may in course of time concern themselves with such matters as agricultural indebtedness, education, rural uplift and many other useful activities.

SECTION III

District and Taluq Boards

We have dealt with the foregoing bodies in some detail for the reason that they are not found here to function on modern and efficient lines, and that before we could make our proposals, we had, necessarily, to see how such bodies worked elsewhere, and how their structure and functions varied, with the objects Governments had in view. We do not however propose to go into such details in respect of the other local bodies we are to deal with presently, partly because they are of a class which show some uniformity everywhere in their structure, functions and powers, and partly because our report seems to be growing in volume beyond the limits we had originally set for it.

As we have pointed out elsewhere in our report, there already exist in the State, local boards at the headquarters of each district and taluq. The Taluqdar is the Chairman of the District Board and the Assistant Talukdar and the Tahsildar are the chairmen of the boards at the Division and Tahsil headquarters respectively. The District Board consists of fourteen members and the Taluq Board of eight, ex-officio and non-official members being equal. The non-official members of the District Board are nominated by the Revenue Department and of the Taluq Board by the Subedar of the Division concerned. The local cess

levied is one anna per rupee of land revenue, of which two pies are reserved for public health, three for education and seven for *Rifa-i-Am* or general amelioration of the people of the local areas concerned: and separate budgets are prepared for each object. The amount allotted for education is controlled by the Educational Department; that for public health by the Medical Department; and that for *Rifa-i-Am* by the Revenue Department.

Proposal to
abolish the
Taluq Boards

Increasing concern has been shown during the last eight years by the Revenue Department to improve the constitution of these bodies and to acquaint them with newer methods of work. The department, we understand, has proposed that the Taluq Boards should be dispensed with, and we think we should welcome this suggestion. The existence of the two bodies, the District and the Taluq Boards, side by side, minimizes the chances of extensive activity on their part, and adds to administrative and financial difficulties as well. This is an inference which does not call for any particular exposition. The question, however, which has engaged careful consideration everywhere is: Which of the two bodies, the District or the Taluq Board, is to be dispensed with?

Abolition of
District
Boards not
desirable in
public interest

The abolition of the District Boards will remove the only agencies which can give cohesion to all the district activities. The Taluq Boards by themselves do not possess the financial resources which a District Board can command for constructive and useful activities in the district. Besides, a bigger organization than the Taluq Board is necessary to take preventive measures against epidemics and follow a programme of general amelioration, which is not possible unless the whole of the district is treated as an administrative unit. No Taluq Board, however earnest it be, can do much useful work unless its efforts are co-ordinated from a common centre.

Administra-
tive considera-
tions

The work connected with education, public works and sanitation is always such as to need the help of a well-paid establishment, and the Taluq Boards can hardly bear the expense if they have to make their own arrangements. In British India, the District Boards used to entertain well-paid staffs who were allowed to assist the Taluq Boards also. This duality could not work well, and we think that, in the interests of efficient organization and working, the Taluq Boards should be abolished.

The financial considerations which have weighed elsewhere also lend support to our view. In 1928-29, the total expenditure of the Taluq Boards in the Presidency of Madras was Rs. 1,65,36,928 and the cost of management was Rs. 11,16,013 which is 6.6 per cent. of the total expenditure. The expenditure incurred by the District Boards in the same year was Rs. 3,52,03,827 while the cost of management was Rs. 8,95,783, which is only 2.56 per cent. of the total expenditure. This shows that the percentage of expenditure on mere management incurred by the Taluq Boards was two and a half times as much as the percentage in the case of District Boards.

Financial considerations

In addition to this, it was found in 1934 that 90 out of the 208 Taluq Boards had recurring deficits; that 39 had just enough money to pay establishments and contingencies, with the result that the various institutions under them were not able to carry on their work satisfactorily.

Having regard to these considerations we are in entire agreement with the views of the Revenue Department that the Taluq Boards should be abolished.

With regard to the elections to District Boards, we hold the same opinion we have expressed in connection with the Legislature, namely, that they should be organized not on territorial lines, but entirely on the basis of interests; and we consider this as not merely a correct, natural and reliable form of representation, but under Indian conditions, it will, other helpful forces co-operating, tend to promote the economic reconstruction of the social order. It may however be added that if, as a result of elections under this system, it should be found that any particular area has gone without any representation, Government can restore the deficiency by means of nomination, even as is done under the territorial system in respect of certain interests.

Representative element in District Boards, and method of representation

A view is held that the Panchayats and Municipalities may be given the privilege of electing members to the District Boards. But, this will be favouring an indirect form of election, and besides, the functions of the three bodies are somewhat dissimilar in character. We therefore think that elections to District Boards should be

secured through organized associations of the different 'interests' in the districts.

Official and
Nominated
element, and
proposed
Constitution

The importance of the official element on the District Boards is admitted on all hands and its presence will be needed until the people acquire sufficient experience and the District Boards are placed on a sound financial footing.

Bearing all these considerations in mind, we recommend the following composition for the District Boards:—

Ex-officio Members	..	5
Nominated	..	5
<i>Elected Members to represent</i>		
I. Agricultural Interest	.. ..	6
(a) Jagirdars	..	1
(b) Inamdars and Mashdars		1
(c) Peasant-proprietors	..	2
(d) Tenants	..	2
II. Arts and Handicrafts	.. ..	1
III. Industry and Trade	.. ..	1
IV. Women	.. ..	1
V. Medical Profession	.. ..	1
VI. Legal Profession	.. ..	1
VII. Banking and Co-operative Credit	..	1
VIII. Education	.. ..	1
IX. Labour and Depressed Classes	..	1
		<hr/> 24 <hr/>

Term of
District
Board;
President and
Vice-President

At present the term of each District Board is three years. We think that this arrangement may continue. As far as possible, the Taluqdar should preside over its meetings and in his unavoidable absence, a non-official member nominated by Government on the recommendation of the Taluqdar, should take the chair. As it may not always be possible to secure a graduate to represent educational interests on the Board, we suggest that the privilege of electing a representative of the educational

interest may be given to an organization the minimum qualification for whose membership is Matriculation.

In general terms the functions of the District Boards **Functions** should be:—

- (1) Communications .. (Other than those within the province of the
- (2) Public Works .. P.W.D.)
- (3) Public Health and Sanitation.
- (4) Education.

For the sake of convenience the above functions are stated in greater detail in the following list which may however be amended or altered according to the needs and exigencies of the future:—

- (1) (a) Construction, repair and maintenance of public roads and other means of communication which are not under the control of any other local body or of Government;
- (b) planting and preservation of trees on the sides of roads and on other public grounds in its control;
- (c) establishment, management and maintenance of markets, travellers' bungalows, musa-firkhanas, rest-houses and other public institutions, and the construction and repair of all buildings connected with these institutions;
- (d) construction and repair of public wells, tanks, supply of water from them and from other sources, and preservation from pollution, of water for drinking and cooking purposes;
- (e) promotion of vaccination and the appointment and control of vaccinators;
- (f) measures necessary for the public health, sanitation and other local services, and control of sanitation during jattras, fairs and festivals;
- (g) management of such public ferries as may be entrusted to its charge;
- (h) maintenance of any building or other property vested in it.

(2) Any District Board may, at its discretion—

- (a) provide for the registration of births and deaths within the district, subject to such conditions as the Government may impose in this behalf;
- (b) encourage and develop co-operative societies in the district;
- (c) promote development of economic condition with special reference to agriculture and industries and commerce;
- (d) encourage local arts and industries and grant loans for this purpose subject to the rules made by the Government in this behalf;
- (e) institute, hold and manage fairs, cattle and agricultural shows and industrial exhibitions;
- (f) take measures for improvement of cattle;
- (g) pay travelling allowances to members of the District Board or any Committee thereof subject to the rules prescribed in this behalf;
- (h) organise and maintain, in time of famine or scarcity relief and local relief work, and shops or stalls for the sale of necessities of life;
- (i) provide accommodation for any class of servants employed by the District Board and grant loans to such servants for construction of houses subject to the rules and conditions prescribed by the Government in this behalf;
- (j) contribute towards any public fund raised for the relief of human suffering within or without the area under the authority of the District Board;
- (k) by a resolution passed at a meeting and supported by one-half of the whole number of members of the Board, and with the previous sanction of the Government, arrange for any public reception, ceremony or entertainment; and

- (l) undertake any other matter not hereinbefore specifically named which is likely to promote the public health, safety, comfort and convenience of the people.

CONTROL

One of the objects of establishing such institutions is to educate the people in the art of local self-government. But this does not mean that any lapses on their part should go unnoticed or remain unrectified or that the forces tending to affect adversely the interests of administration should not be kept in check. Besides, the functions entrusted to these bodies are not confined in their operation and effect to any limited area: they concern many sides of national activity. And so it becomes necessary to view them all from a country-wide standpoint also. And this duty should rest with that co-ordinating agency commonly known as Government. In England, recourse is had to law courts in cases where local authorities exceed their legitimate powers, and the Central Government is able to exercise some power of supervision and control especially in regard to semi-national services for which it makes a contribution. On the Continent of Europe Governments exercise administrative, as well as legislative control in a very effective manner.

There is no doubt that Lord Ripon strove to see that meddlesome interference was not allowed in the administration of local bodies. But effective governmental control was not appreciably relaxed until Dyarchy was introduced in the Provinces and the department of local self-government was transferred to Ministers responsible to the Legislature.

The present position is that governmental control is exercised partly through legislation and partly through the provincial executive having the power to frame rules under the Act. And then it is obligatory on these bodies that they should obtain the sanction of Government for any taxes that they levy, or for any loans they may raise. Before granting such sanction Government satisfies itself that the loan will be spent on a work of public

utility and that it will be spent economically and in accordance with the rules framed for the purposes. Government also exercises a considerable amount of control in the matter of appointment of important officers and lays down rules in respect of other employees. In extraordinary circumstances, Government retains the power to suspend or dissolve these bodies. It will thus be seen that the control exercised over these bodies is legislative as well as financial and administrative.

Latitude to
be allowed to
Local Boards
consistent with
Governmental
control

Bearing all this in mind, we recommend that, while exercising the necessary control in the directions referred to above, Government should, in the interest of co-operation and of political education of the people, allow considerable latitude to the local boards in the exercise of their discretion, and that since Government and the people are one, the control exercised by Government should be of the nature of sympathetic guidance.

Finances

We suggest the following sources of revenue for the District Boards.

- (1) Local Cess.
- (2) Profession-tax.
- (3) Pilgrim-tax.
- (4) Amusement Tax.
- (5) Tolls (Motor cars should be exempted as the Central Government is levying the tax).
- (6) Grants from Government and contributions from private individuals or local bodies.
- (7) Income from
 - (a) remunerative enterprises,
 - (b) the property of the board,
 - (c) license fees and fines,
 - (d) local cess on the excise revenue,

The apportionment of local cess between the different departments has already been touched upon and it is not necessary that we should express any views in detail in respect of them, because the matter may be left for mutual adjustment between the boards and the departments concerned. We may, however, recommend that the revenue accruing from the several sources specified above, should be placed entirely at the disposal of the boards, and that a cess should also be levied on the Abkari revenue as is done in the Presidency of Madras.

The distribu-
tion of Local
Cess; and
Cess on the
Abkari
Revenue

SECTION IV

Municipal and Town Committees and the City Municipal Corporation

We have recommended already the establishment of a Panchayat for every village whose population is between 1,000 and 5,000. We now proceed to make our proposals in respect of those larger centres in which signs of urban life are noticeable. The Revenue Department has already established Municipal Committees, with a non-official majority, at Aurangabad, Jalna, Nanded, Gulburga, Raichur, Latur and Warangal, where the population is over 20,000. But these bodies do not, however, seem to satisfy the demands of modern life, and we think that they should now not merely have an elective element but should also have their functions enlarged and their strength increased.

Present
position

In the Dominions, there are altogether 85 places where the population varies from 5,000 to 15,000. In addition to these, there are, excluding the City of Hyderabad, 12 towns with a population of over 15,000. We are of opinion that Town Committees should be constituted for the former category and Municipal Committees for the latter. There are certain district headquarters whose population is below 15,000, but in view of their position, it seems desirable that Municipal Committees should also be formed in them. There are a few towns like Hingoli, Khammam, Narayanpett and Siddipett which are neither district headquarters nor have the requisite population; but we think that the local conditions there, are such that it should not be difficult to have Municipal Committees established in those places. We think, however, that the final decision in regard to such centres should rest with Government.

We have given careful consideration to the question whether elections to the Municipalities may not be arranged on the basis of wards or divisions by localities. In support of this view, it may be urged that the municipal needs of any town do not warrant the election of members on the basis of functional representation, because, there, the ties of neighbourhood are stronger than the bonds of interest. As against this view, it may be argued that there would be no harm if the representatives of wards are also the representatives of interests. Such members will not only have a special experience of their own business or profession but will also have the necessary local knowledge to represent the general interests of the wards themselves. At present special interests are represented by means of nomination, and in the proposed scheme all important interests will be placed on a better organized and a more fully representative basis. The idea that the division of a Municipality into wards facilitates effective supervision should not be taken too seriously so far as the mofussil Municipal Committees are concerned; as they are not so extensive in area as to necessitate any division into wards. Without entering therefore into any further discussion of this subject, we propose the following composition for Municipal and Town Committee:—

I. *Municipal Committees*

Industry and Trade	1	} Elected
Women	..	..	1
Liberal Professions	..	..	1
Banking and Money-lending	..	..	1
Organized labour	..	..	1
Depressed Classes	..	..	1
Owners of lands and buildings within the municipal area	..	..	2
Non-officials	2	} Nominated
Officials representing Educational, Medical and Public Works Departments	..	..	3
			13	

II. *Town Committees*

Officials including the Chairman	..	..	5
Nominated non-officials	..	..	2

Elected :—

Owners of lands and buildings within the municipal limits	..	..	..	1
Industry, Trade and Commerce	..	..	..	1
Labour and Depressed Classes	..	..	..	1
				<hr/> 10 <hr/>

We have made provision for the representation of Women on the Municipalities, because the vital interests of a municipal area in regard to public health especially domestic hygiene and child welfare etc., may well be represented by them. We are of opinion that it should not be difficult to have suitable representatives of women now that a Women's Association for Educational and Social Advancement has been established here, with its branches working in the districts, through which the necessary representation may be secured.

The president of a Municipality or Town Committee at the district headquarters should be the Collector, and at every other place the seniormost Revenue Officer. The appointment of a non-official president cannot be thought of until the people have gained sufficient experience and the financial resources of each Municipality are satisfactorily built up. It may, however, be added that in the absence of the official president the District Collector may, with the permission of the Government, appoint a non-official to preside over a Municipal Committee. The term of office for these bodies should be three years, and their functions may broadly be the following:—

General Functions

- (1) Construction and maintenance of roads, streets and wells.
- (2) Preservation of public health, (vaccination, sanitation, drainage, water-supply and measures against epidemics).
- (3) Elementary education. (The importance of elementary education requires that the technical and administrative control should vest in the Educational Department).

- (4) Other matters likely to promote the health, safety, comfort, and convenience of the people.

These functions may be further specified as follows:—

Municipalities

- (a) Lighting public streets, places and buildings;
- (b) Watering public streets, and places;
- (c) Cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipal council or not; removing noxious vegetation; and abating all public nuisances;
- (d) extinguishing fires, and protecting life and property when fires occur;
- (e) regulating or abating offensive and dangerous trades or practices;
- (f) removing obstructions and projections in public streets or places, and in spaces not being private property which are open to the enjoyment of the public, whether such spaces are vested in the municipal council or belong to the Government;
- (g) securing or removing dangerous buildings or places and reclaiming unhealthy localities;
- (h) acquiring and maintaining, changing and regulating places for the disposal of the dead;
- (i) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter houses, latrines, privies, urinals, drains, sewers, drainage works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;
- (j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabi-

tants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost;

- (*k*) naming streets and numbering houses;
- (*l*) registering births and deaths;
- (*m*) public vaccination;
- (*n*) suitable accommodation for any calves, cows, or buffaloes required within the municipality for the supply of animal lymph;
- (*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief;
- (*p*) arranging for the destruction or the detention and preservation of such dogs within the municipality as may be dealt with under the law in force;
- (*q*) providing facilities for anti-rabic treatment and meeting the expenses of indigent persons undergoing rabic treatment within or outside the municipal limits;
- (*r*) housing and maintaining destitute orphans and destitute cripples;
- (*s*) printing such annual reports on the municipal administration of the municipality as the Government by general or special orders requires the municipal council to submit;
- (*t*) providing special medical aid and accommodation for the sick in time of dangerous disease; and taking such measures as may be required to prevent the outbreak, or suppress and prevent the recurrence, of the disease;
- (*u*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipality.

The functions of Town Committees may be:—

own
committees

- (a) lighting public streets, places and buildings;
- (b) cleansing public streets, places and sewers, and all spaces not being private property which are open to the enjoyment of the public, whether such spaces are vested in the municipal council or not; removing noxious vegetation; and abating all public nuisances;
- (c) disposing of night soil and rubbish;
- (d) extinguishing fires, and protecting life and property when fires occur;
- (e) regulating or abating offensive or dangerous trades or practices;
- (f) removing obstructions and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipal council or belong to the Government;
- (g) securing or removing dangerous buildings or places;
- (h) acquiring and maintaining, changing and regulating places for the disposal of the dead;
- (i) constructing, altering, maintaining and improving public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, and providing public facilities for drinking water;
- (j) providing a supply of water, proper and sufficient to prevent danger to the health of the inhabitants and their domestic cattle;
- (k) naming streets and numbering houses;
- (l) registering births and deaths;
- (m) public vaccination;
- (n) establishing and maintaining dispensaries, and providing public medical relief;

- (o) taking such measures as may be required to prevent the outbreak, spread or recurrence of dangerous diseases;
- (p) any measure likely to promote the health, safety, comfort, convenience, interest or welfare of the public not specified above when directed by the Government.

CONTROL

In view of the general conditions prevailing here, the progress of Municipalities and Town Committees is not possible without the sympathetic supervision and control of the Government. Some measure of internal control is provided in the constitution itself of these bodies, but external control should ordinarily be exercised in respect of:—

- (1) Inspection and audit, and calling for information, papers and reports.
- (2) The fixing of municipal limits and of taxes.
- (3) Sanction of budget and loans.
- (4) Sanction of works outside the prescribed financial limits.
- (5) Sanction of certain appointments.

The extraordinary powers of the Government will be the suspension and dissolution of Municipalities and Town Committees.

FINANCES

The following sources of revenue may be suggested for these bodies:—

- (1) Property-tax, *i.e.*, tax on lands and buildings.
- (2) Taxes on professions and trades.
- (3) Taxes on vehicles and animals.
- (4) Rates and fees for services rendered and licenses issued.
- (5) Such other special and purely local taxes as Government may approve.
- (6) Grants-in-aid from Government.

Government
Control;
Ordinary and
Extra-ordinary

Sources of
Revenue

Establishment
of Committee
in
Non-Diwani
Ilqas

It may be pointed out that for some time until the municipal resources are sufficiently developed, it will be absolutely necessary for Government to make lumpsum contributions from the general revenues to these Committees, and also percentage contributions in cases of special services. Besides, the object of Municipal Reform will not be achieved until and unless similar Committees are established in non-Diwani Ilqas as well; and the question as to who should constitute the official and non-official elements of such bodies, Government will have to settle in consultation with the Ilqas concerned.

Hyderabad Municipal Corporation

Present
Composition

We proceed now to describe briefly the present state of the Hyderabad Municipal Corporation. This body is working under the Act No. XII of 1342 F. () and is composed of the President and 36 members inclusive of the Vice-President. The President is appointed by Government, and the Vice-President is elected by ballot from among the members themselves. The following is the present composition:—

Appointed	..	..	..	10
<i>Sarf-i-Khas</i>	..	..		1
<i>Paigah</i> Nawab Lutfud-Dowla				1
„ Nawab Moin-ud-Dowla				1
„ Nawab Sultanul-Mulk				1
Estate of Nawab Salar Jung				1
„ Maharaja Sir Kishen Pershad		..		1
Jagirdars	..	..		2
Graduates	..	..		1
Sahucars and Merchants	..			1
Elected	..	..	..	13
Nominated	..	..	..	13
Officials and non-officials	..			10
Depressed Classes		..		1
Parsis	..	..		1
Christians	..	..		1

36

The term of membership is three years, on the expiry of which the members retire at 12 Noon on the 1st Azur.

It is a matter of common knowledge that the division of the city into its present wards is not satisfactory from any recognized point of view.* But we think that as the Corporation is in existence, all suggestions for its reform must come from within, and that it is not good policy to impose it from without. Besides, we are entirely opposed to the very system of territorial representation. For that reason also, the question of the city's division into wards does not appeal to us. Our views concerning the system of representation that should be followed for the Legislative Council, the District Boards and the Municipal and Town Committees have already been clearly stated, and need no repetition here.

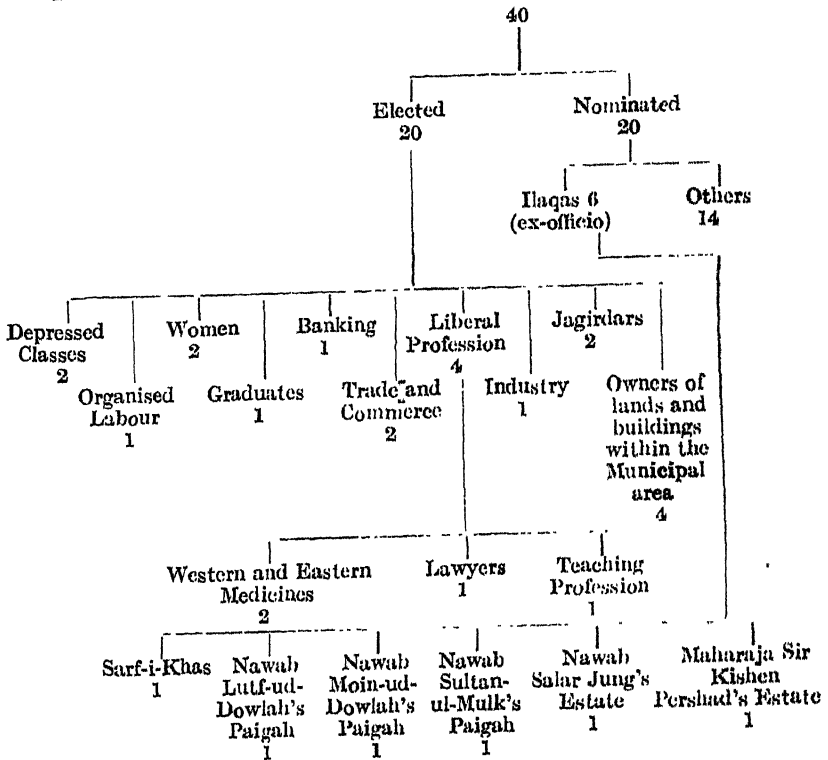
Proposed
method of
election and
amendment of
the relevant
Sections of
the Act

It might perhaps be urged with some force that the territorial system of representation for the Hyderabad Municipal Corporation will afford facilities for the supervision of different wards. This may be true; but it does not follow that this can be achieved only through territorial elections. In the first place, the Act itself does not lay down that the candidate who stands for any particular ward should be a resident of that ward, and, even if such a condition should exist, it would not be difficult for representatives coming through the functional system to be assigned, on their election, specified areas for purposes of supervision. And then there is the possibility always of Government nominating a few to cover any deficiency arising in consequence. It will therefore be clear that the system of election by interests, if followed here, should present no practical difficulties of a serious nature; and when the usefulness of the system has already been pointed out, there is no reason why it should not be adopted in this case also. We are therefore of opinion that those sections of the Act which relate to election by wards should be so amended as to allow the

* The attached map shows the division of the Corporation's jurisdiction into several wards and gives the necessary particulars in respect of them.

Proposed
Composition

Corporation to be constituted in the following manner:—



Non-official
President

We feel hesitant to suggest any further changes for the reason that it is only four years now since the present Act has been in operation. But we think that after some further trial, Government may consider whether a non-official President should not be appointed for the Corporation. We hope that such a progressive step will soon be taken; and if any amendments to the Act are called for on any account, it is up to the Corporation itself to draw attention to them.

We should have liked to read the Government review on the Corporation's work of the last three years, but we understand that no such review has yet been made. The general impression seems to be, and it is endorsed by several memoranda also, that the experiment has not been an unqualified success.

The
experiment
and its
future

One of our members, Mr. Akbar Ali Khan, happens to be the Vice-President of the Corporation. The Chairman of the Committee and its Secretary and another member, Mr. G. M. Qureishy, are also its members, and

have some experience of its working. So an expression of opinion from us may not seem desirable. We may, however, observe that if the people are really imbued with the spirit of service and possess an impersonal and non-communal outlook, there seems to be no reason why they should not be able to improve the condition of the metropolis. Knowledge of civic affairs will come as time passes and without allowing the necessary time to gather experience, it will not be right to say that the experiment has been a failure.

In the end, we have to submit that until the municipal executive is made strong and is allowed the necessary facilities to carry out comprehensive programmes, no municipal administration can achieve much; and so far as the Hyderabad Municipal Corporation is concerned, it is very necessary that the right public spirit should be created among the *Mir Mohallas* and their committees, so that the Municipal Commissioner may enjoy their active co-operation. If these committees are representative of the important interests in the city and they work together with sincerity, there would lie open before them many avenues of true service.

*Mir Mohallas
and their
Committees*

CHAPTER V

MISCELLANEOUS

The Committee has also considered the question why provision should not be made for the inclusion of some non-official element in the Executive Council. Mr. Vaidya had at the very outset expressed the opinion that the idea of responsible Government came within the terms of our enquiry. But the subject was not proceeded with as the Chairman had given a ruling to the contrary. At the close of our proceedings, Mr. Vaidya reverted to the subject, and contended that we could at least suggest the inclusion in the Executive Council of one member elected by the Legislature. The official members of the Committee drew the attention of the Chairman to the view they held that even this suggestion of Mr. Vaidya could not come within the scope of the terms of reference, as it meant to propose a form of Dyarchy or a partial transference of responsibility, which the Committee was not within its rights to consider.

It may be pointed out that the Muddiman Committee of 1924 had shown in detail how Dyarchy even in its limited form, had not been a successful experiment. The Simon Commission also held the same view. The advocates of nationalism regard Dyarchy as an old weapon of Imperialism forged to create internal dissensions, as under this system, they say, all the important departments—like those of Finance, Law, Justice and Police—are retained by Government, and only the minor ones are transferred to popular Ministers; and the transference is made only as a matter of make-believe to show that a considerable portion of authority is entrusted to responsible ministers, although they are but tools in the hands of Government and can by themselves do little good to the people.

The fact is that such an arrangement neither creates any sense of responsibility in the ministers themselves, nor does it assure the Legislature that they are in any way responsible to it. Besides, there could exist little genuine team-spirit between the members in charge of the

reserved and those holding transferred portfolios—the team-spirit so essential to the success of the Executive. Under that system the Legislature is apt to devote its time and energy mostly to criticising the working of the reserved departments, and either fails to appreciate the importance of transferred subjects or chooses to remain silent over them. Further, it is a matter for serious thought whether the unity of the Executive should be impaired by the inclusion of a non-official elected member.

The idea is entertained that under the new reforms introduced in the Cochin State, the Ruler appoints an elected member of the Legislature to the Executive Council. This is not correct, as there is no Executive Council in Cochin.

From Section IV* of the Government of Cochin Act of 1938, it will be evident that formerly there used to be only a Diwan through whom the Ruler exercised his executive authority. Under the new arrangement, in addition to the Diwan, the Ruler appoints in his own discretion an elected member of the Legislative Council as a minister to be in charge of certain departments. This fact does not lend support to the view that an elected member of the legislature should be selected for a place *on the Executive Council*.

Bearing all this in view, the question was considered whether we should recommend the appointment to the Executive Council of an elected member of the Legislature. The Chairman and the rest of the Committee, with the exception of Mr. Vaidya, were of opinion that such a measure will, from the practical standpoint explained above, hardly produce good results, and that the member so appointed will occupy an invidious position *vis-a-vis* the Government on the one hand and the legislature on the other.

The question was also raised why a non-official not necessarily an elected member of the legislature, taking an active part in public life, should not be appointed to the Executive Council. In regard to this also, the official

* Subject to the provisions of this Act, the executive authority of the Cochin State is exercised by His Highness through the Diwan in relation to reserved subjects, and through the Minister appointed under this Act in relation to transferred subjects.....”

members of the Committee adhered to their original opinion that any such question was outside the terms of reference. But the Chairman expressed that in view of the elasticity which the term "effective association" possessed, such a recommendation was permissible. He, however, agreed with the official members and Mr. Akbar Ali Khan, that it is not desirable to make such a recommendation.

Conclusion

We are conscious of the earnest wish His Excellency the President has recently expressed that our report would be unanimous; and we venture to submit that it is so in the larger sense of the term. The few differences that exist between us are only in regard to minor details. This is but natural, and should only go to prove that every one of us has done his best to give a free expression to the views he holds.

We have all along kept in mind the assurance of His Excellency that the terms of reference have been "kept wide deliberately" so that we might be "unhampered in a comprehensive study of the problem." As far as circumstances could permit, we have endeavoured to justify this assurance: and now that we are bringing our labours to a close, we feel that our task will remain incomplete, unless we tender our sincerest homage to His Exalted Highness and our gratitude to his Government for the confidence reposed in us. We shall feel honoured should His Exalted Highness deign to consider that we have realized "the responsibility of the task" entrusted to us, and discharged it "in a manner worthy of its importance."

"We but strive: it is for Him to fulfil."

S. ARVAMUDU AIYANGAR,

Chairman.

GULAM MAHMOOD QUREISHY.

QADIR HUSAIN.

K. S. VAIDYA.

MIR AKBAR ALI KHAN.

S. YOUSUF ALI,

Secretary.

31st August, 1938

25th Mehir, 1347 F.

CHAPTER VI

Summary of Recommendations

1. The Committee is of opinion that consistently with the sovereign rights of the Ruler, it is essential for the internal and external security of the State that the people should have an effective association with the Government. Sovereignty

2. In order that such association of the people might be secured and their needs and desires properly ascertained, it is necessary that the public services should be manned by persons who have a lasting attachment to the State. An independent and impartial agency should be established to raise the standard of efficiency and the *morale* of the public services. Public Services

3. Freedom of association, speech, and writing should be conceded within legitimate bounds. Civic Rights

4. As desired by His Exalted Highness, 'institutional rather than personal agencies' should operate to ensure the co-operation of the people.

5. As institutional agencies should be truly representative of the people, the Committee is of opinion that elective representation should be effected not on any communal or territorial basis, but, as circumstances allow, on the basis of economic and other interests through organizations representing such interests. Representation of Economic Interests

6. As the present Legislative Council cannot adequately meet the needs of time, it should be so reconstituted that, with a non-official majority, it should provide for effective representation of the different interests in the State. Legislative Council

The Legislature should be composed of 77 members including the President, and should enjoy powers of legislation, interpellation and discussion, with regard to all subjects except those expressly specified in the Report.

It should have, in the opinion of the majority of the members of the Committee, only the right of discussion in respect of the Budget. But the minority is of opinion

that the Legislature should be given the right to pass or reject or reduce any demand for grant. The Committee recommends that the life of each Legislative Council should be five years.

Central
Advisory
Boards and
Committees

7. The Committee recommends that with a view to effecting a closer association of the people with the administration, the following Central Advisory Boards and Committees, composed of an equal number of officials and non-officials should be established:—

- I. Finance Standing Committee.
- II. Board of Public Health.
- III. Board of Agricultural Development.
- IV. Board of Industrial Development.
- V. Board of Education with Sub-Committees formed on the above lines to deal with
 - (a) Primary Education,
 - (b) Secondary Education,
 - (c) Adult Education,
 - (d) Technical and Industrial Education,
 - (e) Physical Education,
 - (f) Female Education,
 - (g) Education of the Depressed Classes.
- VI. Committee for the management of Muslim Endowments.
- VII. Committee for the management of Hindu Endowments.

NOTE:—(Boards and Committees recommended above should be appointed for a period of three years).

Commission to
investigate
Religious
grievances

Government should also appoint a Commission to investigate the religious grievances of the people, and to suggest remedial measures that may seem necessary in the light of its investigation.

District
Conferences

8. Besides the Central Advisory Bodies mentioned above, the Committee recommends that public conferences, under the presidentship of the Subedar concerned, should be held annually in every district at a suitable place to enable the people to express their needs.

Local Self-Government Institutions

9. The Committee recommends that Panchayats ^{Panchayats} should be constituted in all villages having a population of 1,000 to 5,000 persons, with Panchayat officers appointed by Government to supervise their work; and that the Panchayats should be given financial assistance. The strength of each Panchayat may, according to population and local conditions, vary from five to eleven members. The life of each Panchayat should be three years, but its president should be appointed annually.

NOTE:—There are 3,657 villages having a population ranging between 1,000 and 5,000.

10. Judicial benches should be constituted by Government at suitable places for the convenience of the public. ^{Judicial Benches}

11. The Committee agrees with the proposal of the Revenue Department that, having regard to financial, administrative and other considerations, the Taluq Boards should be abolished and that District Boards ^{District Boards} should be reconstituted consisting each of 24 members and having an elected majority. To supplement the income of these Boards, a local cess should be charged to the Abkari revenue and the possibility of financial aid by Government should be fully considered.

12. The Committee recommends that for every town with a population of 5,000 to 15,000 a Town Committee should be appointed composed of 10 members including the President, and, in addition to district headquarters, every town with a population of 15,000 and above should have a Municipal Committee of 14 members with an elected majority. Every year, a non-official Vice-President should be appointed by Government to preside over its meetings in the absence of its President. In the interests of good and efficient management, Government should exercise adequate control and also afford it financial aid. ^{Municipal and Urban Committees}

13. The Committee considers it necessary that Municipal and Town Committees should be established in all *non-Khalsa Ilqas* in the same manner as recommended for the *Diwani Ilqas*.

14. In regard to the Hyderabad Municipal Corporation, the Committee recommends that the system of election by wards should be abandoned and that elections ^{Hyderabad Municipal Corporation}

hereafter should be conducted on the basis of interests represented by organised associations.

The strength of the Corporation should be fixed at 40 instead of 36, and that Government may consider the appointment of a non-official President.

District Municipalities

Town Committees

the following towns with a nominated
and an official President :—

Population

..	..	62,119
..	..	41,083
d	..	36,870
..	..	26,992
..	..	30,760

— intended as to conform to elections
specific economic interests as detailed

seats	..	14
..	..	6
asses	..	2
labour	..	1
..	..	2
..	..	1
..	..	1
commerce	..	2
..	..	2
essions	..	4
& Eastern		
2, Legal		
ers 1, &		
profession 1)		
lands and		
within the		
area	..	4
Total	..	39

ould have a non-official Vice-President
nt annually—to preside over the meet-
President.

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PART III

Summary of Representations received from the Public.

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PART III

Summary of Representations received from the Public

In this Part, references are given to the number of memorials or memoranda and against them are mentioned briefly the recommendations contained therein. The aim underlying this is to furnish to Government a rough idea of the views held by the public.

All the memorials and memoranda are given in Appendix III of the Report, and cover 495 typed pages. Some of them are in English and the rest in Urdu. But as the Proceedings were taken down in English for the convenience of the Committee, the abstracts of the memorials and memoranda were at first prepared in English but were rendered into Urdu to be included in the Report originally written in that language.

There has thus been no little labour and trouble involved in sifting all the material and preparing a summary of it. Still an attempt has been made to do justice to each representation. The Committee had not had the opportunity to apply to these memoranda and memorials the recognised principles of scrutiny. Yet they have a value of their own, inasmuch as, they indicate broadly the different phases of the awakening that has taken its rise among the people.

The contents of these memorials and memoranda are, however, given in greater detail in the summaries which are given in the form of charts at the beginning of Appendix III.

Proposals and Recommendations

1. Twenty-two representations advocate "no reforms" on the grounds that:—

(a) People in general are quite contented: it is only a handful of agitators from outside with little or no stake in the country who have been clamouring for reforms, with a view to securing their own ends at the expense of the poor. (b) The masses are utterly ignorant and as such they are sure to be exploited by selfish

persons, if reforms of the British Indian type are allowed to be introduced in the Dominions. (c) Democracy has proved a failure elsewhere and democratic institutions constitute a perennial source of discord and dissension. (d) The results of the two elections to the Hyderabad Municipal Corporation prove in no small measure the utter futility of the system, and furnish a grave warning against its adoption on a comprehensive scale.

These representations suggest that to associate the people with the Government it would suffice if the members of the Executive Council administer the departments under their control in view of the advice tendered by consultative bodies consisting of an equal number of officials and non-officials; while to ascertain the wishes and grievances of the people they recommend that His Excellency the President and the Taluqdars should hold Darbars periodically and allow the people directly to represent their needs and desires.

23. (a) Creation of Income-Tax Department, (b) establishment of a poor house, etc.

24. (a) Stoppage of influx of non-mulkis into the Dominions, (b) creation of a consultative board consisting of an equal number of officials and non-officials to advise every member of the Executive Council in regard to the administration of the departments under their control.

25. Appointment of a Committee to get back the lost rights and territories of the Nizam.

26. Expresses dislike for any kind of reforms except through the Heads of various departments.

27. (a) Abolition of the hereditary patelship, (b) introduction of a suitable course of training for Deshmukhs and Despandes.

28. Supports the view that, as the people are not either adequately educated or politically conscious, it would not be advisable to introduce any reforms. If, however, it is considered inevitable, it recommends that political importance and not numerical strength should be the basis of consideration and adjustment. It further advocates (a) unicameral legislature merely as a law-making body, (b) separate electorates, (c) strong representation for Ulema, (d) revival of the post of

Sadrus Sudur, (e) declaration of Hanafite Islam as the religion of the Ruler and the State, (f) creation of local bodies in districts and taluqs on the joint basis of election and nomination.

29. This representation constitutes a passionate plea against the introduction of reforms of the British Indian type which foster and accentuate communalism and divide the people into hostile camps. It maintains that, as the democratic system of Government has been tried and discarded by many countries in the world, it will be futile to introduce it in the State unless it be to please the British rulers or to satisfy a handful of hypocrites who pose as the well-wishers of the people without having an iota of sympathy for them. It holds Government servants solely responsible for all the defects which have crept into the administration of the State, and recommends the creation of a *select committee for appointments* to put right the present state of affairs.

30. Proposes creation of advisory boards consisting of nominated representatives of the different sections of the people with a view to assist the members of the Executive Council in the administration of the departments under their control. It warns against the imitation of the British Indian methods in Hyderabad and accuses the non-mulki adventurers for spreading the venom of communalism and undermining the strength and solidarity of the State.

31. Proposes establishment of representative advisory boards and expresses apprehension that reforms of the British Indian type will not suit the genius of the people, but lead to friction and discord.

32. This representation is emphatically of opinion that (a) in view of the political and educational backwardness of the people, it would be a great mistake to think of introducing any reforms of a parliamentary character in Hyderabad, (b) to ensure effective association of the people with the Government, it is absolutely necessary to abolish the present practice of allowing patels and patwaris to succeed to their respective offices by virtue of heredity, (c) Taluqdars and the President of the Executive Council should hold periodical conferences and Durbars respectively, (d) consultative boards should be constituted to advise the members of the Exe-

cutive Council in regard to the administration of the departments under their control.

33. Conveys a resolution to the effect that the Anjuman is in entire agreement with the proposals which were being submitted by the Anjuman-e-Ittihadul Muslimin.

34. Conveys the resolution adopted by the executive committee of the Anjuman and expresses entire agreement with the views submitted by the Central Anjuman at Hyderabad.

35. Expresses entire agreement with the views submitted by the Anjuman-e-Ittihadul Muslimin, Hyderabad.

36. Requests that a representative of their interest may be added to the 'Aiyangar Committee, (the Legislative Council).'

37. A 'separate electorate and special representation for Ayurvedic and Unani medicine.

38. Do do

39. Desires "due representation of labour in any scheme of constitutional reforms."

40. Do do

41. (a) Representation of 18 per cent. of seats in the legislature for the Depressed Classes and nomination of candidates by their recognised associations, (b) guarantee of employment for the Depressed Classes, and their representation "in the various organs of Government," (c) compulsory formation of unions in every industry with a view to secure adequate representation of labour, (d) creation of Municipalities, District Boards and Panchayats on the system obtaining in British India, together with the appointment of a Panchayat Officer in every district, to guide, supervise and control the Panchayats, (e) formation of statutory bodies like the Railway Board, Central Educational Council, Finance Standing Committee, Public Service Commission and Industrial and Commercial Advisory Board, (f) statutory confirmation of the fundamental rights of citizenship by the legislature.

42. Separate representation for the Adi-Hindus.

Note:—The letter forwarding the resolution of the Adi-Hindu Maha Saba did not bear any signature and was therefore returned to the Secretary.

43. Special consideration for the Sikh subjects of the Dominions in any scheme of reforms and also radical changes in the management of the Gurudwara at Nanded.

44. (a) "Safeguards for the minority communities and separate representation.....for the Sikh community," (b) Association of "elected representatives with nominated Government members" for purposes of management of the Nanded Gurudwara.

45. Separate representation for the Sikh community.

46.

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47. (a) Bicameral legislature with reservation of seats in the lower house to represent the banking interests, (b) single-member constituencies, (c) territorial electorates, (d) election of three-fourths of the executive councillors by the legislature, (e) extension of franchise to 10 per cent. of the total population, (f) creation of Panchayats with Civil and Criminal powers.

48. Reservation of seats for the Lingayat community.

49. Nomination by Government for the Jain community in case of their failure to secure representation through open elections.

50. (a) "Special statutory safeguards for the community and also separate electorates," (b) bicameral legislature—the upper house to consist of an equal number of elected and nominated elements, (c) responsibility of the "Cabinet" to both houses, (d) inclusion of the Railway budget in the State budget, (e) discontinuance of the practice of employing non-mulkis "be they Europeans or non-Europeans," (f) abolition of the Railway Board and its replacement by a board within the State, (g) adequate share for the community in the State services, (h) extension of franchise to 50 per

cent. of the total adult population and also to British Administered Areas, (i) guarantee of civil liberties.

51. "Adequate representation of Indian Christiansin view of the great pioneer service rendered by the community in the general enlightenment of the State in the direction of fighting illiteracy" and promoting works of public utility.

52. (a) Reservation of seats in the legislature, (b) earmarking of a "certain proportion of appointments.....in all the branches of State service."

53. (a) Adequate provision for representation of women on the "legislative, municipal and all other councils and committees," (b) full recognition of citizenship.

54. (a) Adequate representation for Zamindars, (b) responsibility of the executive both to the Ruler and the legislature, (c) bicameral legislature with joint electorates and reservation of seats for special interests.

55. Demands "that a Ministry of Health..... should be adopted as a minimum basis and that the proposed Ministry should be assisted by the recommendations of an advisory board of Health consisting of elected non-official representatives from amongst the medical practitioners of the State."

56. (a) Bicameral legislature with an upper house of 30 and a lower house of 125 members—36 to be nominated and 89 to be elected on the basis of direct voting, (b) election of two members—one from each house—to the Executive Council, (c) "plural constituencies," with reservation of seats for Harijans and women, (d) nomination for Christians, (including Europeans and Anglo-Indians), Parsis, Sikhs and Backward classes, (e) election of the Deputy President.

57. (a) Bicameral legislature with Standing Committees to advise the members of the Executive Council—excepting the Political Member—on matters of policy relating to the departments under their control, (b) joint electorates without reservation of seats except in cases of Jagirdars, Anglo-Indians, Europeans, Depressed classes, Jungle tribes, Commerce, Banking, Labour and University Interests, (c) election of the

President and the Deputy President, (d) extension of franchise up to 10 per cent. of the total population, with plural voting, (e) full powers to sanction and reduce demands for grants, to ask questions and move resolutions, except in regard to matters concerning the Ruler, the treaties entered into by him, and the Army.

58. (a) Bicameral legislature with franchise between 10 and 25 per cent. of the total population, (b) election on territorial basis, (c) reservation of seats for Harijans and Labour organizations and statutory provisions to safeguard minorities consisting of less than 5 per cent. of the population, (d) liberalisation of local bodies, (e) creation of Panchayats, (f) declaration of fundamental rights of citizenship.

59. Expresses the view that the idea of responsible government in an Indian State is constitutionally untenable, and that reforms in British India have tended to create and foster communalism: and, still, if it be inevitable to follow that example, Hyderabad, with a view to protect vested interests, should have two houses of legislature of which the lower should consist of 120 and the upper of 40 members.

60. Recommends the Mysore model, *i.e.*, an unicameral legislature supplemented by a representative assembly, with some alterations.

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62. Unicameral legislature of 100 members on the basis of direct voting and joint electorates without reservation of seats, with powers (except in cases specified in the memorandum) to ask questions, move resolutions, and to discuss and vote on demands for grants. It favours the declaration of responsible government under the aegis of the Asaf Jahi Dynasty as the ultimate goal of reforms; and recommends franchise only for the literates.

63. (a) Unicameral legislature to be constituted "on economic and social principles" with reservation of seats for the Adi-Hindus and Christians, (b) creation of standing committees, (c) election by legislature of two or three members to be in charge of education, public health and local self-government departments, (d) declaration of fundamental rights of citizenship.

64. (a) Unicameral legislature on the basis of direct voting, multi-member constituencies and joint electorates, with reservation of seats for Hindus, Muslims and Harijans, and also for special interests, (b) creation of statutory bodies and a Public Service Commission, (c) reorganization of District and Taluq Boards and creation of Panchayats with minor powers, (d) declaration of fundamental rights of citizenship.

65. (a) Bicameral legislature with an upper house of 65—consisting of 33 elected by territorial constituencies, 16 elected by the lower house, and 16 nominated by Government—and a lower house of 200 members—consisting of 130 members elected by general constituencies, 37 representing special constituencies and 33 nominated by Government—with powers—except in regard to matters specified in the memorandum—to ask questions, move resolutions and to discuss and vote on demands for grants, (b) election by the lower house of half the members of the Executive Council, (c) responsibility of the executive both to the legislature and the Ruler, (d) formation of a Standing Finance Committee and also of the following “Advisory Committees” each consisting of an equal number of officials and non-officials:—

- (i) “Railway and Communication Board,
- (ii) Central Educational Council,
- (iii) Industries and Commerce Committee,
- (iv) Economic Council and
- (v) Public Service Commission.”

(e) creation of (1) District Boards each consisting of 12 to 16 members with an elected Vice-President and two-thirds majority of the elective element, (2) Municipal Councils (for Towns with a population of 2,000 and above) consisting of an equal number of elected and nominated members, (3) Panchayats (for villages with a population of 1,000 and above) with an equal number of elected and nominated members, (f) declaration of the fundamental rights of citizenship.

66. (a) Unicameral legislature with joint electorates and reservation of seats on the population basis, (b) division of the State on the linguistic basis, (c) creation of Panchayats and reorganization of district and

taluk boards, (d) cancellation of orders and circulars affecting the fundamental rights of citizenship.

67. (a) Unicameral legislature on the basis of direct voting and joint electorates, (b) nomination for minorities, (c) election by the legislature of two members to be in charge of the nation-building departments. It further suggests that the election of no candidate professing any religion should be held to be valid if one-third of the total number of votes obtained by him have been polled by voters who are not his co-religionists.

(c) Bicameral legislature with an upper house consisting of 17 members representing *Jagirs* and other *zamindars* and 13 nominated (officials, and non-officials), and a lower house consisting of 70 members out of whom 38 officials and non-officials) are to be nominated by Government, and 32 to be elected indirectly on the basis of equal representation for Hindus and Muslims.

69. Expresses the following views (a) "A partial responsible government may be introduced for the presentthe legislature will have full control over the budget," (b) Interest constituencies will not be suitable for the State as representatives of such constituencies "are by the very nature of their selection bound to press the interests of their constituencies at the expense of the national interests while the representative of a territorial constituency has to represent electors of all groups and interests in that area and he considers that his constituency is a miniature of the whole country, and so his outlook will be much more national," (c) "A married woman will be considered to have the qualifications of her husband." (d) "All statutes passed by the legislature must receive the assent of the Ruler before becoming laws: In case of non-approval they will be returned to legislature and if passed by three-fourths majority will become law," (e) "The Judges of the High Court will be appointed by legislature by a majority vote.....all other appointments to be made by the Prime Minister with the approval of the legislature," (f) "The legislature may delegate all or some of its powers to a Public Service Commission appointed by it," (g) The constitution must guarantee fundamental rights of civil, religious, and cultural liberty to all its citizens.

70. Forwards a resolution of "a public meeting of the citizens of Poona" which observes "that H.E.H.'s Government, at any rate would not consider the demand for full self-government as extravagant."

71. (a) Responsibility of the executive to the legislature and election by the latter of one-third of the members of the Executive Council, (b) an unicameral legislature of 125 members "with a clear elected majority" through direct voting and joint electorate, separate representation for Harijans, Christians, and Sikhs. As regards the Muslims, it states that the joint electorates they are not at all likely to be represented in the legislature in proportion to the population," (d) adult franchise after 10 years, (e) ratification of fundamental rights of citizenship.

72. (a) Responsibility of the executive to the legislature, (b) unicameral legislature, (c) multi-member constituencies and joint electorates with reservation of seats in proportion to the population of each community, (d) extension of franchise from 10 to 25 per cent. of the total population.

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74. (a) Responsibility of the executive to the legislature, (b) unicameral legislature of 150 members with the proportion of rural to urban as 3:1, with direct voting and joint electorates, (c) compulsory education, (d) statutory recognition of the fundamental rights of citizenship.

75. (a) Responsibility of the executive to the legislature, (b) separate electorates for the backward classes, vakils, labourers and women, (c) adult franchise after 5 years, (d) reduction of the land revenue by one-third, (e) declaration of the fundamental rights of citizenship.

76. (a) Responsibility of the executive to the legislature, (b) enlargement of the Executive Council with members elected by the legislature on salaries to be determined by that body, (c) bicameral legislature with indirect election for the upper house, (d) creation of District and Taluq Boards, Public Service Commission, Financial Standing Committee, Non-official Board of

Education, and (e) declaration of the fundamental rights of citizenship.

77. (a) Progressive realisation of responsible government, (b) transfer of nation-building departments to the control of members elected by the majority party of the legislature, (c) expansion of the legislative council on non-communal basis without reservation of seats, and on numerical basis if reservation of seats is considered necessary, (d) re-distribution of the Subhas on the linguistic basis, (e) creation of local bodies, and (f) declaration of the rights of citizenship.

78. (a) Formation of the cabinet by the party constituting the majority in the legislature, (b) unicameral Legislature, . . . Joint electorates and allotment of seats on the population basis, (c) division of the State on the linguistic basis, (d) creation of local bodies and Panchayats with judicial powers, and (e) declaration of the fundamental rights of citizenship.

79. (a) Formation of the cabinet by the majority party, (b) unicameral legislature with direct voting, joint electorates and allocation of seats on the basis of population, (c) creation of statutory bodies, District Boards, Taluq Boards, and Panchayats, and (d) guarantee of civil liberties.

80. (a) Progressive realisation of responsible government, (b) expansion of the legislative council on non-communal basis without reservation of seats, and on numerical basis if reservation of seats is considered necessary, (c) creation of local bodies, (d) re-distribution of Subhas on the linguistic basis, and (e) declaration of the fundamental rights of citizenship.

81. (a) Responsibility of the executive to the legislature, (b) creation of local self-government institutions on an elective basis, and (c) declaration of the fundamental rights of citizenship.

82. (a) Responsibility of the executive to the legislature, (b) unicameral legislature with a clear majority of elected members and without any reservation of seats, except for special interests and the Harijans. As regards the protection of the minorities, "unless a minority bears a proportion of 20 to 25 per cent. to the total population as provided for by the League of Nations and that unless

it differs from the rest of the people by race, religion and language, it cannot claim special protection, and that the Muslims at any rate have no case for special treatment as a minority, and that it would be simply indefensible to give them a weightage," (c) enfranchisement of 15 per cent. of the total population with no disabilities on account of sex, (d) introduction of compulsory education, and (e) declaration of the fundamental rights of citizenship.

83. (a) Responsibility of the executive to the legislature, (b) election of the President and three-fourths of the members of the Executive Council by the legislature, (c) unicameral legislature of 200 members on the basis of joint electorates without reservation of seats, (d) recruitment of two-thirds of the High Court Judges from the Bar, (e) appointment of a Central Committee in the Ecclesiastical Department to look after the affairs of the Hindus, (f) provision of facilities for learning Sanskrit, (g) establishment of Military training schools to give training to all, irrespective of caste and creed, (h) guarantee of fundamental rights of citizenship.

84. (a) Progressive realisation of responsible government in 15 years, (b) bicameral legislature with an upper house of 15 nominated and 60 indirectly elected representatives, and a lower house of 144 with 96 non-Muslim-directly-elected representatives, (c) creation of Statutory Boards, District Municipalities, District and Taluq Boards and Panchayats, and (d) guarantee of civil liberties.

85. (a) Suggests "far-reaching reforms" and offers proposals similar to those contained in representation No. 84 (above), and recommends (b) the creation of a "Law Commission to draft Government and private bills," and (c) a Public Service Commission "to be entrusted with the work of selection, examination and graduation and appointment of government officials and servants."

